

EXHIBIT 3

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

NIKKI BOLLINGER GRAE, Individually
and on Behalf of All Others
Similarly Situated,

Plaintiff, Civil Action No.

vs. 3:16-cv-02267

CORRECTIONS CORPORATION OF
AMERICA, ET AL.,

Defendants.

CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

VIDEOTAPED DEPOSITION OF DONNA MELLENDICK

Conducted virtually via remote videoconference
October 27, 2020

Reported by:
Misty Klapper, RMR, CRR
Job No.: 10073773

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MIDDLE DISTRICT OF TENNESSEE

NIKKI BOLLINGER GRAE, Individually
and on Behalf of All Others
Similarly Situated,

Plaintiff, Civil Action No.

vs. 3:16-cv-02267

CORRECTIONS CORPORATION OF
AMERICA, ET AL.,

Defendants.

Videotaped deposition of DONNA MELLENDICK, taken on
behalf of Defendants, via Zoom remote videoconference,
beginning at 10:10 a.m. CST on Tuesday, October 27, 2020,
before Misty Klapper, RMR, CRR.

1 APPEARANCES:

2 (ALL APPEARANCES VIA ZOOM REMOTE VIDEOCONFERENCE)

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23 ALSO PRESENT: DeSHAWN WHITE, VIDEO OPERATOR

24 D. SCOTT DODRILL

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C O N T E N T S

WITNESS:	EXAMINATION BY:	PAGE:
Donna Mellendick	Ms. Tomkowiak	6

E X H I B I T S

MELLENDICK EXHIBITS:

NO.:	DESCRIPTION:	PAGE:
Exhibit 585	Expert Report of Donna Mellendick of D1 Corrections Counseling, LLC dated 8-7-20	8
Exhibit 586	Notice of Deposition of Donna Mellendick dated 10-16-20	26
Exhibit 587	Expert retention letter, Forge to Mellendick dated 3-10-20	31
Exhibit 588	LinkedIn profile page for Donna Mellendick	40

Note: Exhibits marked and attached to original.

1 P R O C E E D I N G S

2 VIDEO OPERATOR: Okay. The time on
3 the record is 10:10 a.m. Central Time.
4 Today's date is October 27, 2020.

5 My name is DeShawn White of Aptus
6 Court Reporting. The court reporter today
7 is Misty Klapper of Aptus Court Reporting,
8 located at 600 West Broadway, Suite 300,
9 San Diego, California, 92101.

10 This begins the video-recorded
11 deposition of Donna Mellendick, testifying
12 in the matter of Nikki Bollinger Grae versus
13 Corrections Corporation of America, et al.,
14 pending in the United States District Court,
15 Middle District of Tennessee, case number
16 3:16-cv-02267, taken by Zoom video remote
17 conferencing, physical recording in
18 Culpeper, Virginia.

19 The video and audio recordings will
20 take place at all times during this
21 deposition unless all counsel agree to go
22 off the record. The beginning and end of
23 each video recording will be announced.
24 Counsel appearances will be on a
25 stenographic record.

1 The court reporter may now swear in
2 or affirm the deponent.

3 MS. REPORTER: One moment.

4

5 Whereupon:

6

7 DONNA MELLENDICK,
8 was called for examination, and, after being duly
9 sworn, was examined and testified as follows:

10

11 MS. REPORTER: Thank you.
12 You may proceed.

13 EXAMINATION BY COUNSEL FOR DEFENDANTS

14

15 BY MS. TOMKOWIAK:
16 Q. Good morning, Ms. Mellendick.

17

18 A. Good morning.

19

20 Q. We -- we spoke before we went on the
21 record, but I don't think I introduced myself.
22 So my name is Sarah Tomkowiak and I represent the
23 defendants in this matter.

24

25 Have you been deposed before?

26

27 A. I have not.
28 Q. Okay. Well, this deposition is being
29 taken over Zoom, so it's even more important
30 than -- and when we're in person usually to try
31 not to talk over each other.

32

33 Your counsel might also object to my

1 questions. And so if you could let him finish
2 his objection before you give your answer just so
3 we have a clear record, I would appreciate that.

4 A. Okay.

5 MR. FORGE: Sarah, I apologize for
6 interrupting, but did everybody state
7 their appearances on the record?

8 MS. TOMKOWIAK: I'm sorry --

9 MS. REPORTER: They're on the
10 stenographic record.

11 MS. TOMKOWIAK: Right.

12 MR. FORGE: Okay. I've -- I've --
13 I've never done that before. I think in
14 every deposition we've done so far
15 everybody has actually stated their
16 appearances. But if you're okay with
17 that, that's fine.

18 MS. TOMKOWIAK: I'm okay with that
19 as long as they're on the transcript.

20 BY MS. TOMKOWIAK:

21 Q. Okay. If I ask a question that you
22 don't understand, please let me know and I'll try
23 to clarify. Okay? And if you need a break for
24 any reason, just let me know and I'm -- I'm happy
25 to do that. I'll try to take a break every hour,

1 90 minutes or so, both for us and for the court
2 reporter.

3 Do you understand that you are under
4 oath today as if you were giving testimony in
5 court?

6 A. Yes.

7 Q. Is there anything that would impact
8 your ability to answer questions today?

9 A. No, ma'am.

10 Q. I might refer to CCA today as CCA or
11 CoreCivic. Do you understand that I'm talking
12 about the same company?

13 A. I do.

14 Q. So we are sending the court reporter
15 your report to mark as Exhibit 585.

16 (Thereupon, Mellendick Exhibit
17 Number 585 was marked for
18 identification.)

19 MS. TOMKOWIAK: And that is tab 1.

20 THE WITNESS: Okay.

21 BY MS. TOMKOWIAK:

22 Q. I understand that you have a copy of
23 the report that you've submitted in this case in
24 front of you; is that correct?

25 A. Right. It is correct.

1 Q. Okay.

2 MS. TOMKOWIAK: And for the
3 videographer, we do not need to display
4 this on the screen. This is the one
5 document that we'll be referring to from
6 time to time today and -- and we can -- we
7 all have a copy of it.

8 BY MS. TOMKOWIAK:

9 Q. So the front page of your report says
10 Expert Report of Donna Mellendick of
11 D1 Corrections Consulting, LLC, August 7, 2020.

12 Do you see that?

13 A. I do.

14 Q. What is D1 Corrections Consulting,
15 LLC?

16 A. It is an LLC that I established
17 earlier this year.

18 Q. When did you establish it?

19 A. In March of this year.

20 Q. When did you first begin working as a
21 consultant?

22 A. I believe I signed the agreement -- I
23 can pull it up. I don't have the exact in front
24 of me, but I believe it was late March or early
25 April.

1 Q. I see. You're -- you're referring to
2 this matter; is that correct?

3 A. Correct. Yes.

4 Q. Okay. Well, let me ask the question
5 this way:

6 In between the time that you retired
7 from the BOP in August 2015 to March 2020 what
8 did you do in between that time period?

9 A. In between that time period I have
10 done some consulting with various research
11 companies periodically.

12 Q. Okay. So you were doing consulting,
13 but it wasn't until March of this year that you
14 established your own D1 Corrections Consulting
15 Company?

16 A. That's correct.

17 Q. When, approximately, after you
18 retired did you begin doing consulting work?

19 A. It was a little after a year, August
20 of -- late August of 2016, I believe.

21 Q. Why did you start doing consulting at
22 that time?

23 A. I was presented with some
24 opportunities from some different companies based
25 on my expertise and what I did with the Bureau of

1 Prisons.

2 Q. Were any of those private companies?

3 A. No, ma'am.

4 Q. What types of companies generally
5 speaking? You don't need to tell me the names of
6 them.

7 A. It was research companies. They were
8 just looking for information regarding some of
9 the work I did while I was employed with the
10 Bureau of Prisons just to get a feel for what was
11 involved with the -- like a better understanding
12 of -- of the particular discipline or the
13 industry, things of those natures, but I never
14 talked with any private corrections company.

15 Q. Do you understand what those research
16 companies were doing with your work?

17 A. Yes.

18 Q. And what -- what were they doing with
19 your work?

20 A. They were using it to gain
21 information to better help them determine how
22 they were going to invest. That's my
23 understanding of it.

24 Q. Do you have any employees?

25 A. I do not.

1 Q. What type of work product did you
2 produce for those research companies, generally
3 speaking?

4 A. It was just over-the-phone
5 consulting.

6 Q. All right. So nothing in writing?

7 A. No, ma'am.

8 Q. Did any of those clients ever ask you
9 to opine on the quality of performance of their
10 contracts?

11 A. No.

12 Q. You can turn to page 26 of your
13 report.

14 A. Okay. Okay, I'm there.

15 Q. Is that your signature?

16 A. Yes.

17 Q. Approximately when did you sign this
18 report?

19 A. August 7th.

20 Q. You signed it the -- the day it's
21 dated?

22 A. Yes.

23 Q. Since that time have the opinions
24 that you've expressed in this report changed at
25 all?

1 A. They have not.

2 Q. Do you have any additional opinions
3 that you intend to offer at trial, beyond those
4 that are stated in this report?

5 A. I do not.

6 Q. Are there any errors in this report
7 that you would like to correct?

8 A. Not that I'm aware of.

9 Q. Just -- just to be clear, does your
10 report contain all of the opinions that you
11 intend to offer at trial in this case?

12 A. I'm -- I am assuming it does. Again,
13 I've -- this is my first deposition. If we go to
14 trial, I -- if there's new information that is
15 presented, I don't know that that might affect an
16 opinion that -- you know, an additional opinion
17 that I may have.

18 Q. Okay. Well, then, let me ask it this
19 way:

20 Based on everything that's been made
21 available to you as of October 27th 2020, does
22 your report contain all of the opinions that you
23 intend to offer at trial in this case as of
24 today?

25 A. Yes.

1 Q. If you can turn to Exhibit 1 of your
2 report.

3 A. Um-hmm.

4 Q. This is a list of documents and other
5 information considered.

6 Does this list every document that
7 you -- every document or other piece of
8 information that you considered in forming the
9 opinions in your report?

10 A. It is all of the documents that were
11 numbered with the Bates numbers.

12 MR. FORGE: I'm just going to
13 interject an objection. It's compound.

14 Could you just -- I'm not getting the
15 realtime. Could you repeat the question,
16 Sarah, please?

17 MS. TOMKOWIAK: Sure.

18 BY MS. TOMKOWIAK:

19 Q. The title of the exhibit is Documents
20 and Other Information Considered. And so my
21 question is, is this a list of all documents and
22 other information considered by you,
23 Ms. Mellendick, in forming the opinions in your
24 report?

25 MR. FORGE: Yeah, I'm going to

1 object. That's compound for documents and
2 information. They're two different
3 things.

4 MS. TOMKOWIAK: Just the title of
5 the document.

6 BY MS. TOMKOWIAK:

7 Q. But in any event, is this an
8 accurate -- a full and accurate list of
9 everything that you considered?

10 A. The documents that are listed in
11 Exhibit 1 and then, in addition, what I
12 referenced in my report, if I referenced any like
13 media articles that I looked at, just doing some
14 Google research. But everything else is listed
15 in Exhibit 1.

16 Q. Okay. So everything that's listed in
17 Exhibit 1 or otherwise referenced in your
18 report --

19 A. Yes, ma'am.

20 Q. -- is the world of documents that you
21 considered?

22 A. Yes, ma'am.

23 Q. And other information?

24 A. As listed in my report.

25 Q. Did you review every single document

1 listed in Exhibit 1 personally?

2 A. Yes, I did.

3 Q. Approximately how many hours would
4 you say you spent reviewing these documents?

5 A. Just reviewing the documents or my
6 total time working on this report or --

7 Q. Just reviewing the documents.

8 A. Just reviewing the documents,
9 probably at least hundred plus.

10 Q. Is there any information that you
11 requested but did not receive?

12 A. Not that I can think of.

13 Q. How did you get these materials?

14 A. They were mailed to me by the law
15 firm of Robbins Geller Rudman & Dowd.

16 Q. Who selected them?

17 A. I believe -- well, what I received
18 from them and if there were any documents that I
19 thought were missing, I worked through Robbins
20 Geller, Dowd and Rudman (sic) to request them.
21 So everything came from the law firm.

22 Q. With respect to the initial batch of
23 documents you received, do you have an
24 understanding of how the law firm selected those?

25 A. I do not.

1 Q. You did not do any personal searching
2 through any document databases or -- or anything
3 like that?

4 A. No, I did not.

5 Q. Did you look at any deposition
6 transcripts?

7 A. Yes, I have.

8 Q. Are those listed in Exhibit 1?

9 A. No, they're not.

10 Q. Do you know why not?

11 A. They weren't used to formulate my
12 report most likely why not.

13 Q. Okay. So are you saying you looked
14 at deposition transcripts, but you did not
15 consider them in forming your opinions?

16 A. I did not.

17 Q. What deposition transcripts did you
18 look at?

19 A. I have reviewed the deposition of
20 Mr. Lappin, Mr. Hininger, Mr. Dalius, Mr. Martz,
21 Mr. Kelly, Mr. Bland.

22 I believe that's it. And then I did
23 sit in on audio with Mr. Dodrill's deposition as
24 well.

25 Q. But again, you didn't consider any of

1 that testimony in forming the opinions that are
2 set forth in your report?

3 A. No, ma'am.

4 Q. If you can look at page 3, footnote 1
5 of your report.

6 A. Okay.

7 Q. Footnote 1 says, Though I have
8 received and reviewed hundreds of documents, I do
9 not believe I have received all relevant
10 documents.

11 What do you mean by that?

12 A. Well, as I go on to say in the next
13 sentence, For example, some documents refer to
14 events such as a follow-up review, but I had not
15 seen the actual report of the events.

16 Q. Okay. Is there anything else
17 specifically that you're referring to when you
18 say you do not believe that you have received all
19 relevant documents?

20 A. No, there's not.

21 Q. With respect to the documents that
22 refer to events such as follow-up reviews, did
23 you ask to see those follow-up reviews?

24 A. I did work with the law firm to
25 acquire what they could get. And some of them

1 were -- although we may not have the actual
2 follow-up review, the information from the
3 follow-up review was summarized in other
4 documents.

5 Q. So in some instances you actually did
6 have access to the follow-up information in a
7 different form; is that what you're saying?

8 A. Yes.

9 Q. Do you believe that your opinions are
10 incomplete in any way, absent reviewing the
11 information that you refer to in footnote 1?

12 A. I do not.

13 Q. Setting aside the time that you
14 worked at the BOP, in connection with preparing
15 this report, did you visit any of the facilities
16 that you reference in your report?

17 A. I have not.

18 Q. Did you interview anybody from CCA?

19 A. I have not.

20 Q. Did you interview anybody from the
21 BOP?

22 A. I have not.

23 Q. If you go to page 5 of your report,
24 please --

25 A. Okay.

1 Q. -- in the paragraph right above the
2 title Background, it says, This report is based
3 on my training, experience and the information I
4 have reviewed to date.

5 What training are you referring to?

6 A. The training that I received
7 throughout my career with the Bureau of Prisons,
8 in particular probably the last 17 years of my
9 career, where I worked and was involved with the
10 bureau's privatization initiative.

11 I don't have a list of training in
12 front of me to spout off to you, but -- I'm not
13 sure what else, so --

14 Q. I -- I appreciate that. And I --
15 just to clarify, then, is there any training
16 besides training that you received in your career
17 at the BOP that you're including here?

18 A. No, nothing outside when I -- other
19 than when I was employed with the Bureau of
20 Prisons. I did take various training classes
21 throughout my career in each role that I served.

22 Q. What are you referring to by
23 experience?

24 A. So experience. Do you want me to
25 talk about my entire career with the Bureau of

1 Prisons or do you want me to focus on my
2 experience working with the bureau's
3 privatization initiative?

4 Q. I just want to know about the
5 experience that your report is based on, so
6 however broad or narrow that is.

7 A. Okay. Well, I've got almost 31 years
8 in with the Bureau of Prisons before I retired in
9 August of 2015. And my first involvement with
10 the bureau's privatization initiative dated back
11 to -- it was the late '90s when the Bureau of
12 Prisons' executive staff approved to formulate a
13 workgroup to examine how to better evaluate our
14 private prison providers -- the services that
15 they provide for us and how we were to monitor
16 them and -- excuse me -- oversee those
17 facilities.

18 Back at that time the Bureau of
19 Prisons had the supervision of those private
20 contract prisons that fell under the respective
21 regional office. And the Bureau of Prisons
22 was -- the executive staff was realizing that
23 there was probably a better and more consistent
24 way to oversee these facilities and wanted to
25 bring the responsibility for it under our -- our

1 headquarters, if you will, or our central office.
2 So I was part of that workgroup to formulate that
3 plan that was approved by the executive staff in
4 late of -- December of 2000. And with that plan
5 it approved the -- as I elaborate in my report,
6 it approved the privatization initiative, but
7 encompassed like a three-prong approach.

8 It -- it started the privatization
9 management branch, which was in the correctional
10 programs division in central office. And that
11 branch was responsible for the management and
12 oversight of all of the bureau's private prison
13 contracts.

14 It established the privatization --
15 privatized corrections contracting section in the
16 administration division. And that section was
17 responsible for all the contractual obligations
18 and management of those contract prisons.

19 And then it also established a
20 contract facility monitoring section in the
21 program review division.

22 So you had three different divisions
23 now responsible for the oversight of these
24 private prison contracts.

25 And with that, I was a section chief

1 in the program review division and I was named as
2 the first CFM, or contract facility monitoring.
3 Section chief. In that role I worked closely
4 with the other two divisions. We staffed our
5 branches respectively.

6 In the program review division as the
7 CFM section chief we brought on subject matter
8 experts to be -- not only were they subject
9 matter experts in their field of expertise, for
10 example, whether it be health services or
11 education or food service, they also became
12 experts in these contracts that we held with
13 these providers. So that team was solely devoted
14 to monitoring all of our private prisons.

15 So that was my first experience with
16 that. I held that position for several years.
17 My duties and responsibilities increased into
18 other positions within the program review
19 division. I became a deputy administrator in
20 that division and I held that position until
21 2010.

22 In that role I oversaw various
23 sections of program review branch, to include the
24 CFM section. So I also -- I had other sections
25 under my responsibility, for example, the

1 correctional services program review section.

2 And I had, like, health services section. And I
3 always maintained the contract facility
4 monitoring section under my supervision.

5 And in 2010, August of 2010, I became
6 the privatization branch administrator in the
7 correctional programs division. And in that role
8 I was then responsible for the oversight and
9 management of all of the Bureau of Prisons'
10 contract facilities. And I held that position
11 for five years until I retired in August of 2015.

12 Q. Any other experience that your report
13 is based on?

14 A. Not that I could think of.

15 Q. Are you aware that you had an
16 opportunity to provide a rebuttal report in this
17 case?

18 A. I believe the attorney I'm working
19 with mentioned that was a possibility, but it was
20 not requested of me.

21 Q. Okay. So that was not your decision?

22 A. Correct.

23 Q. Did you read the report submitted by
24 Mr. Dodrill in this case?

25 A. Which report?

1 Q. Did you read the opening report?

2 A. His first expert report, yes, I did.

3 Um-hmm.

4 Q. Did you read his second report?

5 A. The rebuttal report?

6 Q. Yes.

7 A. Yes, I did.

8 Q. How many times prior today -- how
9 many times prior to today have you provided
10 expert testimony under oath?

11 A. I cannot recall a time.

12 Q. Has any court ever qualified you as
13 an expert?

14 A. No.

15 Q. I believe you said that you were
16 retained in this matter around March 2020; is
17 that correct?

18 A. Yes.

19 Q. Who reached out to you?

20 A. Mr. Forge.

21 Q. And without getting into the -- the
22 specifics of those conversations, generally
23 speaking, what were you asked to do?

24 A. I was asked to review a lot of
25 documents regarding the -- core -- CoreCivic or

1 CCA's performance during the relevant period of
2 2012 through 2016 and to form an opinion based on
3 the review of those documents.

4 Q. Do you recall when you began to draft
5 your report?

6 A. I believe it was in June of this
7 year.

8 MS. TOMKOWIAK: If we could put
9 tab 20 in the chat box and mark that as
10 Exhibit 586.

11 (Thereupon, Mellendick Exhibit
12 Number 586 was marked for
13 identification.)

14 BY MS. TOMKOWIAK:

15 Q. By the way, Ms. Mellendick, did you
16 form your LLC for purposes of this engagement?

17 A. No, ma'am.

18 Q. Okay. That was something you decided
19 to do independent of this matter?

20 A. Yes.

21 Q. All right. So we have Exhibit 586 on
22 the screen, which is the notice of your
23 deposition.

24 Are you familiar with this document?

25 A. Is it just the first page that's on

1 here?

2 Q. No. If -- if you could scroll
3 through and it -- and it is in the -- the chat
4 box, although I know that's difficult for -- for
5 you to download at the same time as you're
6 looking at it. But we'll scroll -- scroll
7 through here so you can see the full document.

8 MR. FORGE: Well, actually, she
9 should have control over the document,
10 Sarah, if you want to ask her about it.
11 It shouldn't be -- if you want to put a
12 document in front of her, you should let
13 her download it.

14 VIDEO OPERATOR: Ms. Donna, would
15 you like control of --

16 THE WITNESS: Yes. Yes, I would,
17 please.

18 MS. TOMKOWIAK: Yeah, that's fine.
19 I -- what I -- I -- I agree. That's fine.

20 MR. FORGE: No, what I mean is she
21 should have independent control over it.
22 It shouldn't be scrolling on everybody's
23 screen depending on what she's doing. She
24 should be allowed to have the document in
25 front of her like any other document and

1 look at it on her screen, not necessarily
2 being broadcast to everybody.

3 MS. TOMKOWIAK: That's fine too.

4 Some -- some witnesses have just said that
5 they don't prefer that or have a -- you
6 know, varying technical capabilities.

7 BY MS. TOMKOWIAK:

8 Q. But Ms. Mellendick, if -- if that's
9 what you would prefer, to download it separately
10 and look at it on your screen, that's totally
11 fine.

12 A. Okay. Well, I have control of it
13 now. As I'm moving it, is -- is that what it's
14 doing for everybody else too?

15 Q. Yes.

16 A. Okay. Then, yeah, if we could send
17 that to me, that would be --

18 Q. Okay. Great.

19 So it should be in the chat box.

20 A. Okay. And then do I just X out of
21 this?

22 MS. TOMKOWIAK: So I think that if
23 the videographer can take back control --

24 THE WITNESS: Okay.

25 MS. TOMKOWIAK: -- and just go --

1 scroll up to the first page.

2 BY MS. TOMKOWIAK:

3 Q. And then, Ms. Mellendick, I think you
4 just need to click on that link and it should pop
5 up in a separate tab on your browser.

6 A. In the chat box? Is that where I'm
7 going?

8 Q. Um-hmm (affirmative).

9 A. Okay.

10 VIDEO OPERATOR: So should I take
11 down this exhibit?

12 MS. TOMKOWIAK: No, you can leave
13 it up. I'm going to ask questions about
14 it, but --

15 VIDEO OPERATOR: Okay. No problem.

16 THE WITNESS: Okay.

17 Okay. I have it in front of me.

18 BY MS. TOMKOWIAK:

19 Q. Okay. And just as a reminder, my
20 question was are you familiar with this document.

21 A. Yes, I am.

22 Q. When was the first time you saw it?

23 A. I believe that was last week.

24 Q. Do you recall who sent it to you?

25 A. Mr. Forge shared it with me.

1 Q. Okay. And if -- if you could please
2 scroll to page 9, which is Schedule A. Well, I
3 guess it's not a schedule. It's just page 9.

4 And Ms. Mellendick, do you understand
5 that this document is the notice of your
6 deposition in this case?

7 A. Yes, I do.

8 Q. And -- and on page 9, Documents to be
9 Produced, did you review this portion of the
10 document when you first received it from
11 Mr. Forge last week?

12 A. Yes.

13 Q. What did you do to search for
14 documents responsive to these requests?

15 A. I discussed it with Mr. Forge and we
16 had determined that we had our -- you know,
17 listed everything in my report.

18 Q. Did you provide Mr. Forge with any
19 documents?

20 A. Any additional documents, no, I did
21 not.

22 Q. Okay.

23 MS. TOMKOWIAK: If you could take
24 that document down and put tab 22 in the
25 chat box. And we'll mark that as

1 Exhibit 587.

2 (Thereupon, Mellendick Exhibit
3 Number 587 was marked for
4 identification.)

5 THE WITNESS: Okay. I'm looking to
6 see how to get out of this right now.

7 BY MS. TOMKOWIAK:

8 Q. Okay. You can either --

9 A. I clicked an X and that didn't work.

10 Q. That usually works for me, to hit the
11 X, or if you can just open the next one that's in
12 the chat box, that might just replace it.

13 A. Okay.

14 Q. Okay.

15 A. Is it the same -- looks like it's the
16 same document.

17 VIDEO OPERATOR: Yeah, there's a
18 second link after the first link. My
19 apologies. That should be tab 22.

20 BY MS. TOMKOWIAK:

21 Q. Ms. Mellendick, do you have that open
22 separately on your own screen as well?

23 A. Not yet.

24 Okay. I believe I'm in it now.

25 Q. Do you recognize Exhibit 587?

1 A. Yes, I do.

2 Q. Okay. And -- and what is it?

3 A. It's the agreement to work on this
4 case that I have with Robbins Geller
5 Rudman & Dowd.

6 Q. All right. Did you -- did you draft
7 this engagement letter or was it provided to you?

8 A. It was provided to me.

9 Q. If you look at number 1, Nature of
10 Engagement --

11 A. Um-hmm (affirmative).

12 Q. -- the second sentence says, It is
13 expressly understood and acknowledged that your
14 retention, brackets, and compensation, is not
15 contingent upon any specific opinions that you
16 may ultimately form or render in this case or on
17 the outcome of this case, and that you are being
18 retained as an independent expert who will render
19 independent opinions.

20 Do you know why the phrase and
21 compensation is in brackets?

22 A. I do not.

23 Q. Is it your understanding that your
24 compensation is not contingent upon any specific
25 opinions that you may offer in this case?

1 A. I'm sorry, repeat that question.

2 Q. Is it your understanding that your
3 compensation is not contingent upon any specific
4 opinions that you may ultimately render in this
5 case?

6 A. Yes, that is my understanding.

7 Q. In connection with this engagement
8 letter, it -- it indicates that you will provide
9 counsel with invoices.

10 Have you, in fact, provided counsel
11 with those invoices?

12 A. Yes, I have.

13 Q. And you do that on a monthly basis?

14 A. Yes, I do, on a monthly basis.

15 Q. I think you said you have no
16 employees, but are -- are you the only person who
17 has billed time to this matter?

18 A. Yes.

19 Q. And do you know why those invoices
20 were not provided to us in connection with our
21 request prior to your deposition?

22 A. I do not.

23 Q. You didn't make that decision one way
24 or the other?

25 A. I did not.

1 Q. If you look at section 9, which is on
2 page 4 --

3 A. Um-hmm (affirmative). Yes, ma'am.

4 Q. -- it says, Your billing rate is
5 \$600 an hour for all services, except for
6 nonworking travel time; is that correct?

7 A. That is correct.

8 Q. And that remains true today?

9 A. It is.

10 Q. And again, as set forth here, it says
11 the invoices shall detail time billed by name,
12 date worked, time worked and work description.

13 Is -- is that, in fact, the format
14 that your invoices follow?

15 A. It is.

16 Q. It also says in that same paragraph
17 that you commit to dedicating a minimum of
18 100 hours to this matter.

19 Have you done that already?

20 A. I have.

21 Q. Do you know approximately how much
22 time total you've spent on this matter?

23 A. To date, probably about 250 hours.

24 Q. And you estimated earlier that you
25 thought you had spent over 100 hours reviewing

1 documents; is that fair?

2 A. I believe it's about that figure.
3 I'd have to go back through my invoices to
4 determine an exact number for you, but yes.

5 Q. And so does that mean you've spent
6 approximately 150 hours preparing your report and
7 preparing for today's deposition?

8 A. That's very possible. Again, I don't
9 have the exact numbers in front of me. I'd have
10 to pull out invoices to provide that to you.

11 Q. Yeah, understood. And -- and -- and
12 neither do we, but just -- I just wanted to
13 understand the rough breakdown of that
14 approximately 250 hours.

15 A. Yes. It was putting -- it was
16 reviewing all documents and using those documents
17 to form my opinion and writing my report.

18 MS. TOMKOWIAK: You can take that
19 document down.

20 BY MS. TOMKOWIAK:

21 Q. Did you personally write your report?

22 A. I did.

23 Q. Every word?

24 A. Every word.

25 Q. Did anybody else review or revise

1 your report?

2 A. I mean, it was reviewed by the law
3 firm which I'm dealing with, but there were no
4 revisions that I did not make myself.

5 Q. Okay. Do you know who Scott
6 Dalrymple is?

7 MS. REPORTER: Sorry?

8 BY MS. TOMKOWIAK:

9 Q. Do you know who Scott Dalrymple -- I
10 might be butchering his name --
11 D-A-L-R-Y-M-P-L-E.

12 A. I do not.

13 Q. Okay. So you don't understand that
14 Mr. Dalrymple is another expert that the
15 plaintiff's law firm has retained in this case?

16 A. I'm not aware of that.

17 Q. Okay. Mr. Dalrymple submitted a
18 report in this case that refers to conversations
19 that he had with you.

20 Do you not recall those
21 conversations?

22 A. Not by -- not with anyone by that
23 name.

24 Q. Okay. Did you have -- do you recall
25 any conversations that you had with any other

1 expert retained by the same law firm in this case
2 that retained you?

3 A. I do not.

4 Q. Other than counsel, have you spoken
5 with any other third party regarding the opinions
6 in your report?

7 A. I have not.

8 Q. Have you spoken with any third party
9 regarding the opinions in any other expert's
10 report?

11 A. I'm sorry. Repeat the question
12 again.

13 Q. Yeah.
14 Other than counsel, have you spoken
15 with any third party about any other experts'
16 opinions in this matter?

17 A. I have not.

18 Q. What did you do to prepare for
19 today's deposition?

20 A. Re-refreshed myself with my report
21 and Mr. Dodrill's reports.

22 Q. Did you meet with counsel?

23 A. I did speak with Mr. Forge, yes.

24 Q. How many times did you speak with
25 Mr. Forge?

1 A. Once.

2 Q. Was anybody else on the phone?

3 A. No.

4 Q. Was it just a phone call?

5 A. Yes.

6 Q. Do you recall approximately how long
7 it lasted?

8 A. I think it was maybe a little over an
9 hour.

10 Q. Other than your report and the two
11 reports submitted by Mr. Dodrill, did you review
12 any other documents in preparation for today's
13 deposition?

14 A. Not that I can think of.

15 Q. What is your understanding of the
16 plaintiff's claims in this matter?

17 A. I understand that there are investors
18 that were upset with CCA for not disclosing their
19 performance during the time period specified in
20 this case, from February of 2012 through August
21 of 2016.

22 Q. Is that understanding based on any
23 information besides information that you've
24 received from counsel?

25 A. No, it's not.

1 Q. Have you read the complaint in this
2 matter?

3 A. It's been a while. I believe I have,
4 but it's been a while.

5 Q. Do you understand that plaintiff is
6 accusing CCA of committing fraud?

7 A. I do.

8 Q. Do you know which individuals are
9 being sued in this matter?

10 A. As it's listed on the case
11 Corrections Corporation of America, and I believe
12 there is a couple of other names from the company
13 listed on there too. I believe Harley Lappin.
14 I'm not sure. Mr. Hininger may be listed on
15 there as well.

16 Q. What is your understanding, if any,
17 of what issues the jury in this case will be
18 asked to decide at trial?

19 A. I would expect they'd be asked to
20 determine if, in fact, CCA was not forthcoming
21 with their investors about their performance on
22 these BOP contracts.

23 Q. Do you own any CCA stock?

24 A. I do not.

25 Q. All right.

1 MS. TOMKOWIAK: If we can put in
2 the chat box Tab 3. And as -- as long as
3 everybody can access it, I don't think we
4 need to put it up on the screen. Unless
5 there's any objections, we can, but I
6 think we can all just look at it
7 ourselves.

8 It's Exhibit 588.

9 (Thereupon, Mellendick Exhibit
10 Number 588 was marked for
11 identification.)

12 BY MS. TOMKOWIAK:

13 Q. Let me know when you have that pulled
14 up.

15 A. I have it pulled up.

16 Q. Exhibit 588 is a copy of your
17 LinkedIn profile. And I don't know if you've had
18 a chance to scroll through here.

19 Does this generally look to be your
20 LinkedIn profile?

21 A. It does.

22 Q. Do you recall the last time you
23 updated this?

24 A. It's been a few years, I believe.

25 Q. To the best of your knowledge, is

1 this an accurate list of the various positions
2 that you held within the Bureau of Prisons?

3 A. It does. Is there more information
4 under regional inmate systems specialist?

5 No. I see it now. No. Okay.

6 Yes, this is an accurate description
7 of what I have in LinkedIn.

8 Q. And am -- am I correct in
9 interpreting this to show that the last time that
10 you worked on the ground in a corrections
11 facility was 1998?

12 MR. FORGE: I'm going to object as
13 vague as what it means to work on the
14 ground in a corrections facility.

15 THE WITNESS: Yeah. Could you
16 clarify that question?

17 BY MS. TOMKOWIAK:

18 Q. Well, you can work in a corrections
19 facility day to day, actually in the facility
20 most of the time, or you can be in an office
21 somewhere else.

22 So is it fair to say that in 1998
23 that was the last time that your full-time job
24 was on the ground working in a corrections
25 facility?

1 A. Yes.

2 Q. Now, for the last five years of your
3 career, it says here that you were the
4 administrator of the privatization management
5 branch; is that right?

6 A. Yes.

7 Q. Does this accurately summarize your
8 responsibilities?

9 A. Yes.

10 Q. And in fact, you were promoted to
11 that position by Mr. Dodrill; is that correct?

12 A. That is correct.

13 Q. And so at that time he was your
14 superior?

15 A. He was the assistant director for the
16 division in which I worked. He was not my direct
17 supervisor.

18 Q. Okay. But he occupied a position
19 above yours?

20 A. Yes, he did.

21 Q. And do you understand that your
22 promotion was approved by the director of the BOP
23 at the time?

24 A. I do.

25 Q. And that was Harley Lappin at the

1 time; is that right?

2 A. At the time it was, yes.

3 Q. And you understand, I believe you
4 testified earlier, that Mr. Lappin is named as an
5 individual defendant in this case?

6 A. Yes.

7 Q. So fair to say during your time at
8 the BOP you worked with both Mr. Dodrill and
9 Mr. Lappin?

10 A. I worked for them.

11 MR. FORGE: Objection, vague.

12 BY MS. TOMKOWIAK:

13 Q. Who did you directly report to as
14 administrator?

15 A. For most -- well, it depends on
16 the -- the time frame. When I came into the
17 branch in 2010 it was Kathryn Tracy. She was the
18 deputy assistant director for the correctional
19 programs division.

20 Q. And who did Ms. Tracy report to?

21 A. Ms. Tracy reported to Mr. Dodrill.

22 Q. And who did Mr. Dodrill report to?

23 A. He reported to the director,
24 Mr. Lappin.

25 Q. At some point did your direct

1 supervisor change?

2 A. It did.

3 Q. So after Ms. Tracy, who became your
4 direct supervisor?

5 A. That would have been Angela Dunbar.

6 Q. And do you recall who Ms. Dunbar
7 reported to?

8 A. There was a different assistant
9 director at the time. She reported to Frank
10 Strada, who was the assistant director for
11 correctional programs division.

12 Q. As administrator of the privatization
13 management branch, what was your salary?

14 A. When I retired, it was about 155,000
15 per year.

16 Q. So that was an annual salary? It
17 wasn't based on -- on the hour?

18 A. It was an annual salary.

19 Q. So I want to focus these next
20 questions specifically on your -- specifically
21 during the period of time in which you were the
22 administrator of the privatization management
23 branch. Or can I just say PMB? Is that okay?

24 A. Yes. Yeah, that's fine.

25 Q. Okay. So during that five-year

1 period, that -- that's -- that's what I'm
2 interested in, in -- in asking the -- the next
3 set of questions.

4 So in that role, how often did you
5 visit private -- privately operated facilities?

6 A. Quite often. If -- are you looking
7 for, like, so many per month or per year?

8 Q. Depending on the frequency, was it
9 every month?

10 A. I -- I think it is safe to say I went
11 out at least once a month. Some months may have
12 been none. Other months may have been two, three
13 times.

14 Q. Okay. And so how often would you say
15 you visited privately operated facilities then on
16 an annual basis?

17 A. I'd say I got out there at least
18 10 to 12 times.

19 Q. How often did you visit BOP-operated
20 facilities?

21 A. During what period of time?

22 Q. Same period of time. During those
23 five years that you were administrator of the
24 PMB.

25 A. I don't recall that I did in my role

1 as PMB administrator.

2 Q. And in your role as PMB
3 administrator, did you have any role in auditing
4 privately operated facilities?

5 A. As the PMB administrator I did not
6 have a direct role in auditing those facilities.

7 Q. Did you have an indirect or
8 supervisory role?

9 A. Yes.

10 Q. In your role as PMB administrator,
11 did you have any direct or indirect role in
12 auditing BOP-operated facilities?

13 A. Not in my role as PMB administrator.

14 Q. And in any of your prior roles did
15 you have a role in auditing BOP-operated
16 facilities?

17 A. I did.

18 Q. Which role would that be?

19 A. That would be in my role dating back
20 to when I was an assistant inmate systems manager
21 up until the time I went into my position as PMB
22 administrator.

23 Q. Okay. So are you saying from
24 March 1995 to August 2010?

25 A. I'm saying from, like, '92, where I

1 was an assistant inmate systems manager at
2 Manchester.

3 Q. Through August 2010?

4 A. Yes.

5 Q. And what exactly was your role in
6 auditing BOP-operated facilities?

7 A. Well, it would depend on what
8 position I was in. Do you want me to touch on
9 each one?

10 Q. Yes.

11 A. Okay. Well, when I was an assistant
12 department head, the assistant inmate systems
13 manager position and the inmate systems manager
14 position at Beckley, I was tacked, if you will,
15 by the program review division to be a member of
16 a program review team to evaluate the inmate
17 systems management department at another BOP
18 facility.

19 When program review would put
20 together a team to conduct an audit at one of its
21 BOP facilities, the program review division, that
22 particular section, had subject matter experts,
23 but they relied on a team that they would put
24 together using subject matter experts throughout
25 the Bureau of Prisons.

1 So I was tasked on numerous occasions
2 in both my roles as assistant inmate systems
3 manager and inmate systems manager to assist them
4 in auditing inmate systems management departments
5 at other BOP facilities.

6 In my role within the program review
7 division, my first -- my first position in that
8 role when I was -- when I started there in 1998,
9 I was the section chief for the inmate systems
10 management, program review branch section.

11 So in that role I was then a
12 supervisory examiner, if you will, for that
13 section and responsible for all of the inmate
14 systems management department program review
15 audits throughout the Bureau of Prisons. So I
16 individually participated in some of those
17 reviews and, again, oversaw that section.

18 In my role as deputy administrator
19 while in the program review division, I would go
20 out with our various program review teams in --
21 in various disciplines and oversee the program
22 reviews that were being conducted.

23 **Q. With respect to BOP-operated**
24 **facilities?**

25 A. Yes.

1 Q. And then when you became
2 administrator of the PMB, your roles shifted
3 solely to focusing on privately operated
4 facilities; is that right?

5 A. That is correct.

6 Q. At any time during your career at the
7 BOP did you have a role in selecting who won
8 competitive procurements?

9 A. I did not.

10 Q. Were you ever a member of the source
11 selection authority?

12 A. I was not.

13 Q. Were you ever a member of the
14 technical source selection evaluation board?

15 A. I was not.

16 Q. Focusing on your role as PMB
17 administrator, did you have any role in
18 negotiating contracts with private prison
19 operators?

20 A. I'm not sure I understand the
21 question. What do you mean by negotiating
22 contracts?

23 Q. Sure.

24 Did you have a role in negotiating
25 a -- the -- the terms of the contracts between

1 the BOP and a private operator?

2 A. I don't know if that's the correct
3 term. We didn't negotiate with private
4 providers. You know, we put out a solicitation
5 for a facility, you know, so many beds, but we
6 didn't negotiate.

7 Q. Okay. I understand, then, why you're
8 struggling with the question.

9 So what -- what role, if any, did you
10 have with respect to the actual contract between
11 the BOP and a -- a private operator?

12 A. Well, in my role as administrator for
13 the privatization management branch, we -- the --
14 the executive staff of the Bureau of Prisons
15 would advise us whether or not we wanted to seek
16 additional contract bids.

17 So, for example, each year with our
18 budget request, were we looking based on
19 population demands of the Bureau of Prisons, were
20 we looking to increase our number of private
21 beds. And if that -- that was the case, then my
22 branch was responsible for putting together a
23 solicitation in connection with the privatization
24 corrections contracting section in the admin
25 division, so putting together the solicitation,

1 the statement of work and outlining that.

2 The privatization corrections
3 contracting section -- is it okay to call them
4 PCC for the purposes of this deposition?

5 Q. Yes.

6 A. Okay. So we would work with PCC.
7 PCC would be the ones that were responsible for
8 putting that out there on -- I believe it was
9 like FedBizOpps. And then once the offerors came
10 back in, one of my assistant administrators was
11 responsible for her and her staff was responsible
12 for putting together the technical source
13 selection team of subject matter experts to
14 review all of the solicitations.

15 Q. Did you have any role in drafting the
16 contracts themselves?

17 A. If we made amendments to the
18 statement of work, if we felt the need for a
19 contract modification, yes, I was involved in
20 reviewing those.

21 Q. Did you have any role in determining
22 whether the BOP exercised options on its existing
23 contracts with private operators?

24 A. The PCC section and the admin
25 division was responsible -- ultimately

1 responsible for that decision. We did consult at
2 times when those option years were coming up. So
3 we were consulted.

4 Q. Okay. So the -- the PMB and yourself
5 personally was consulted, but the PCC was
6 ultimately responsible for determining whether or
7 not to exercise an option?

8 A. Yes.

9 Q. What was your role in approving new
10 staff hires at privately operated facilities?

11 A. What staff? Are you talking about
12 contract staff or BOP staff?

13 Q. Both, focusing first on contract
14 staff.

15 A. Okay. So in other words, if CCA
16 wanted to hire a correctional officer, what is my
17 role? Is that basically the question?

18 Q. Correct.

19 A. I had -- my staff oversaw that. I
20 was not involved unless the contractor was
21 seeking a waiver.

22 Q. What about if it was a -- a more
23 senior position, like a -- a warden of a
24 facility? Would you have become more personally
25 involved in that?

1 A. Yes.

2 Q. Is there a certain level at which
3 your approval was required?

4 A. Actually, at that level it would go
5 through me and then I -- I would also run that
6 through my direct supervisor, the deputy
7 assistant director and possibly in turn up to the
8 assistant director for the division.

9 Q. And by that level, do you mean at the
10 warden level?

11 A. Yes.

12 Q. What about assistant wardens? Would
13 that be the same process?

14 A. I don't recall. I'm sorry, it's been
15 a while.

16 Q. That's okay. To the best of your
17 recollection, though, is -- is that something
18 that you would have at least approved, an
19 assistant warden position?

20 A. I believe so, but again, my memory is
21 a little vague on that.

22 Q. Is it your understanding, though,
23 that under the contracts that the BOP had with
24 private operators, the -- the BOP was required to
25 approve those types of hiring decisions; is that

1 right?

2 A. Yes.

3 Q. You retired from the BOP in August
4 2015, correct?

5 A. Correct.

6 Q. And after you retired, you did not
7 receive any reports from BOP staff regarding CCA
8 facilities; is that right?

9 A. That's correct.

10 Q. And after you retired, you didn't
11 tour any CCA facility?

12 A. No.

13 Q. After you retired, you didn't speak
14 to anybody working at the BOP or CCA about
15 deficiencies in CCA's facilities?

16 A. No.

17 Q. After you retired, you didn't speak
18 to anyone working at the BOP about the likelihood
19 that the BOP would award CCA new business?

20 A. I'm sorry, can you repeat that,
21 please?

22 Q. Sure.

23 After you retired, you didn't speak
24 to anybody working at the BOP about the
25 likelihood that the BOP would award CCA a new

1 contract; is that right?

2 A. I never spoke with anyone at the BOP
3 about any contract issues once I retired.

4 Q. Okay. So to that end, you're not
5 aware of the extent to which the BOP might have
6 implemented different contractual terms or
7 oversight procedures involving privately operated
8 facilities after you retired?

9 A. That's correct.

10 Q. And for any of the events that are
11 cited in your report that took place after you
12 retired in August 2015, you don't have any
13 firsthand knowledge of those events, right?

14 A. Not after I retired, no.

15 Q. You didn't work at or do any
16 consulting for the BOP at any point between
17 August 2015 and August 2016?

18 A. I did not.

19 Q. Is it fair to say that your opinion
20 regarding the quality of CCA's performance during
21 the full relevant time period, which you define
22 as February 2012 to August 2016, that's based
23 upon what you learned and knew during your time
24 at the BOP; is that right?

25 MR. FORGE: Objection, vague.

1 THE WITNESS: Could you repeat the
2 question, please?

3 BY MS. TOMKOWIAK:

4 Q. Sure.

5 You -- you -- your opinion regarding
6 the quality of CCA's performance, that relates to
7 a time period roughly February 2012 to August
8 2016, right?

9 A. Yes.

10 Q. And you testified earlier that your
11 opinion is based in part on your experience at
12 the BOP, correct?

13 A. Yes.

14 MR. FORGE: I'm sorry, I -- did
15 you -- I don't have the realtime. Did you
16 say based in part?

17 MS. TOMKOWIAK: Yes.

18 MR. FORGE: Okay.

19 BY MS. TOMKOWIAK:

20 Q. So sorry. I need an answer from you
21 too.

22 So what I said was and you testified
23 earlier that your opinion is based in part on
24 your experience at the BOP, correct?

25 A. Correct.

1 Q. And that's referring to your
2 experience during the time you were at the BOP
3 30-plus years through August 2015, correct?

4 A. You -- but you were talking about
5 what I put in my report?

6 Q. Well, I'm talking about the
7 experience that you drew upon in forming your
8 opinions as they relate to the 2012-2016 time
9 period. The experience that you're drawing upon
10 is your experience at -- during the time that you
11 were at the BOP; is that right?

12 A. That is right.

13 Q. Okay. I just have a couple other
14 questions on this LinkedIn profile and then we
15 can put it away.

16 I see under Interests that you follow
17 the GEO Group and MTC and CoreCivic.

18 Why do you do that?

19 MR. FORGE: I'm going to object as
20 vague as to time.

21 THE WITNESS: It's been a while.
22 Probably just kind of -- just to see
23 what's -- what they're up to, I guess.

24 It was my -- was my career for quite
25 a while, so --

1 BY MS. TOMKOWIAK:

2 Q. All right. And I see that you also
3 follow the ACA, the American Correctional
4 Association.

5 What's that?

6 A. American Correctional Association?

7 Q. Um-hmm (affirmative).

8 A. It's -- how do I describe it?

9 Mr. Dodrill talks about it in his
10 report, but it's a organization that is comprised
11 of correctional professionals that go out and
12 audit correctional facilities and provide a
13 certification that they're meeting all the
14 standards that the ACA has developed.

15 Q. Why do you or did you at one point
16 follow them?

17 A. I -- throughout my career I've dealt
18 with ACA in my position in the program review
19 division, worked closely with ACA accreditations,
20 et cetera. And -- and I know some -- or did know
21 some folks that are, you know, associated with
22 them, so --

23 Q. Okay. And all BOP-operated
24 facilities are required to maintain ACA
25 accreditation; is that right?

1 A. That is correct.

2 Q. And same thing is true for all
3 privately operated facilities?

4 A. Correct.

5 Q. Okay. We are done with that exhibit,
6 so you can close that out if you want.

7 During the time that you worked as
8 PMB administrator, the BOP was under contract
9 with CCA for the housing of federal inmates in
10 five correctional facilities; is that right?

11 A. That is right.

12 Q. And those are the facilities that you
13 discuss in your report. They're Adams, Cibola,
14 Eden, McRae and Northeast Ohio?

15 A. Yes.

16 Q. In your role as PMB administrator,
17 you interacted with CCA and its employees, right?

18 A. I did.

19 Q. How frequently would you say those
20 interactions were?

21 A. Mainly my staff were the ones that
22 interacted with CCA employees on a regular basis,
23 whether it be daily, weekly. I would say my
24 interactions were probably maybe -- maybe
25 monthly. I kind of think it depended on what was

1 going on at the time.

2 Q. And what were the nature of those
3 interactions with CCA?

4 A. My staff's or mine?

5 Q. Yours.

6 A. Typically it would be working
7 together to schedule partnering meetings and if
8 there were -- we had a -- let's step back a
9 minute.

10 So the Bureau of Prisons partnered
11 with our private providers. We wanted to work
12 together. We wanted our private partners to be
13 successful in providing these inmates with
14 confinement beds. And the partnering process
15 involved staff at all levels in -- in my branch,
16 in the PCC section, in the CFM section to be able
17 to interact with one another.

18 So usually I didn't interact with
19 anyone at CCA unless it was something that
20 couldn't be resolved at a lower level or it was
21 just a higher level, whether we were looking to
22 try to organize our next partnering meeting, you
23 know, the logistics and -- and the agenda,
24 et cetera.

25 Q. Okay. And when it did rise to the

1 level of your involvement, who are the people at
2 CCA on your same level that you would interact
3 with?

4 A. I'm trying to remember their titles.
5 They -- they were usually like a vice president
6 or senior vice president.

7 Q. Do you recall anybody's name?

8 A. Yes, Jeb Beasley and Ron Thompson,
9 Mike Nalley, I think Bart VerHulst.

10 Q. What about Keith Hall?

11 A. Yes, Keith Hall.

12 Q. Bill Dalius?

13 A. Bill Dalius was still employed with
14 the Bureau of Prisons when I was the PMB
15 administrator. He was the assistant director for
16 the administration division.

17 Q. I'm sorry, I didn't catch that. The
18 what division?

19 A. Bill Dalius was the assistant
20 director for the administration division of the
21 Bureau of Prisons.

22 Q. Was that a -- how did that position
23 compare to yours? Was that at the same level as
24 administrator?

25 A. No, he would have been Mr. Dodrill's

1 counterpart. So Mr. Dodrill was the assistant
2 director for correctional programs and he was the
3 assistant director for the administration
4 division.

5 Q. What about Kim White? Did you
6 interact with her at CCA?

7 A. Not during her time at CCA, I did
8 not.

9 Q. During her time at the BOP?

10 A. Yes.

11 Q. How so?

12 A. We worked together for many years on
13 a initiative that the Bureau of Prisons had. It
14 was called the Forward Thinking Initiative. And
15 Ms. White was one of the chairpersons for that
16 initiative and I was the facilitator of that
17 initiative.

18 Q. Okay. What about Don Murray? Did
19 you interact with him at CCA?

20 A. I knew he was working for CCA. I
21 don't think I directly interacted with him, no.

22 Q. You mentioned Mr. Lappin earlier.
23 Did you have any interactions with him at CCA?

24 A. Other than we did have -- every year
25 the Bureau of Prisons -- the director of the

1 Bureau of Prisons would meet with the heads of
2 the private prison companies. And Mr. Lappin,
3 once he retired from the Bureau of Prisons and
4 went to work for CCA, sometimes he did attend
5 those meetings. And in my role at PMB
6 administrator, I sat in on those meetings during
7 the ACA conferences.

8 Q. Okay. It sounds like --

9 A. I'm sorry.

10 Q. I'm sorry. Did you finish your
11 answer?

12 A. Yeah, I'm finished.

13 Q. And other than those conferences, did
14 you have any interaction with him in his capacity
15 at CCA?

16 A. No, I don't recall. I don't recall I
17 did.

18 Q. What about Mr. Hininger? You
19 referenced earlier that you believed he was a
20 defendant in this case.

21 Did you have any interactions with
22 him while he was at CCA?

23 A. I'm sorry. Who -- who again?

24 Q. Sure.

25 Damon Hininger, did you have -- while

1 you were at the BOP, did you interact with --
2 with him while he was at CCA?

3 A. On occasion I did, yes.

4 Q. How frequently would you say?

5 A. It was not frequent.

6 Q. What about Todd Mullenger? Do you
7 know who that is?

8 A. I don't.

9 Q. What about David Garfinkle? Do you
10 know him?

11 A. I don't know that I've met him. I --
12 I know I've seen the name in CCA, but was not
13 somebody I'd interact with regularly.

14 Q. And, again, you said that Mr. Lappin
15 also worked at the BOP while you were there?

16 A. Yes.

17 Q. How often did you -- did you interact
18 with him at the BOP?

19 A. Not often. I'm not recalling a time
20 where I had like a one-on-one interaction with
21 him.

22 Q. What was your opinion of Mr. Lappin
23 at the BOP?

24 A. I highly respected him.

25 Q. What was your opinion of Mr. Dodrill?

1 A. The same. I highly respected him.

2 Q. Now, you said that your staff also
3 had interactions with CCA; is that right?

4 A. Yes.

5 Q. And what was -- if you -- to the
6 extent of your knowledge, what were the nature of
7 those interactions?

8 A. Well, in my branch I had -- I had
9 staff in my branch that worked on-site at each of
10 the private contract facilities. So I typically
11 had at least two staff in my branch. And they
12 interacted with the provider. Whether it be CCA
13 or another company, they interacted with those
14 staff daily. So --

15 Q. You're referring to the -- make sure
16 I get my acronyms right, but SSIM and SOM; is
17 that right?

18 A. That is correct.

19 Q. Okay. And those were the -- the
20 on-site monitors that the BOP had in place at the
21 privately operated facilities?

22 A. Yes.

23 Q. Did the -- do you know, did the BOP
24 have any similar type of on-site monitoring at
25 its own facilities?

1 A. The only instance I could recall that
2 is if -- I think the BOP had at least a couple
3 facilities in which they might have contracted
4 services. So they may have had someone
5 responsible for monitoring the contract.

6 Q. Okay. But as a general matter,
7 the -- the BOP facilities did not have the same
8 type of 24/7 on-site monitors as the privately
9 operated facilities did?

10 A. They did not. And it -- and it
11 wasn't 24/7. I mean, my staff worked a -- an
12 eight-hour day. So it wasn't 24/7, yeah.

13 Q. 8/7?

14 A. Yeah.

15 Q. Got it.

16 And -- and we -- we talked a little
17 bit about the auditing process earlier. And
18 privately operated facilities were audited on an
19 annual basis; is that right?

20 A. Initially when we first started back
21 in early 2000s, it was -- CFM did a -- an audit
22 every six months. And that eventually changed to
23 an annual audit.

24 Q. And is it fair to say that with
25 respect to BOP-operated facilities, they're not

1 always audited on an annual basis, depending upon
2 the rankings that they receive?

3 A. Are you referring to program reviews
4 that were conducted of a discipline in a BOP
5 facility?

6 Q. Yes.

7 A. Yes. So they -- it would -- it was
8 cyclic. It would depend on -- on their last
9 rating, whether the next program review would be
10 a year out, two years out or three years.

11 Q. And turning -- turning back to CCA in
12 your role as PMB administrator, is it accurate to
13 say that you oversaw the issuances of notices of
14 concern, for example, to CCA?

15 A. They were brought to my attention.

16 Q. And what does that mean?

17 A. I was -- I was, like, in the loop.
18 You know, my staff would inform me of what was
19 going on. I didn't approve all of them, but I
20 was aware of them.

21 Q. What about with respect to
22 deductions? What was your role in determining
23 whether a deduction was warranted or not?

24 A. My staff, again, just kept me
25 informed, depending on the circumstances.

1 Q. Okay. So you were aware of them, but
2 would not have been personally involved in
3 issuing them; is that right?

4 A. That is right.

5 Q. Okay. Did you have any ability to
6 change the amount of the deduction or was that
7 not something that was in -- within your control
8 or responsibility?

9 A. No, it was not within my
10 responsibility. That fell under the
11 administration division.

12 Q. Okay. And -- and what about with
13 respect to award fees? What was your role with
14 respect to award fees?

15 A. I was the chairperson for the award
16 fee panel.

17 Q. Okay. So does that mean that you
18 were personally involved in determining whether
19 and to what extent CCA would receive award fees?

20 A. I was -- yes. I was -- we met
21 probably quarterly to look at the facilities that
22 were coming due for their annual award fee and we
23 would meet as a committee and review various
24 documents that reflected the facility's
25 performance and we came to a consensus as to what

1 our recommendation would be for -- if the
2 facility were to get an award fee and we would
3 recommend a percentage or a percentage range.

4 And that recommendation would go to
5 the award fee determination official. FDO, I
6 believe, is the acronym for them.

7 **Q. Who was that person or persons during**
8 **your time as PMB administrator?**

9 A. There was two. So there was Matthew
10 Nace when he was the procurement executive. And
11 then after that, I think when they hired -- the
12 acquisitions branch chief position, if I recall,
13 was vacant for a while. So when they filled that
14 position, then it was Catherine Scott.

15 **Q. What about with respect -- respect to**
16 **CPARS? Do you know what I'm talking about when I**
17 **refer to CPARS?**

18 A. I do.

19 **Q. Okay. What was your role with**
20 **respect to CPARS?**

21 A. I did not have a role.

22 **Q. Okay. But the SSIM and the SOM did**
23 **have a role in -- in drafting the CPARS; is that**
24 **right?**

25 A. My understanding is that the

1 contracting officer drafted it in consulting with
2 the SSIM and the SOM on site.

3 Q. What's that understanding based on?

4 A. They would just, I think, make sure
5 that all of the relevant information, any
6 performance documentation, evaluations that --
7 they would make sure the contracting officer had
8 that information so that they could complete that
9 report.

10 Q. Okay. And the -- the contracting
11 officer is somebody employed by the BOP, correct?

12 A. Correct.

13 Q. Okay. And then you didn't have any
14 personal role in reviewing CPARS?

15 A. I did not.

16 Q. Who would?

17 A. I would believe the contracting
18 officer reported to the PCC section chief, and
19 that would have been Doug Martz.

20 Can I ask if we're going to take a
21 break sometime soon?

22 Q. We are. I have about -- like three
23 to five more questions on this and then we'll
24 move on to something else.

25 Is that okay to just close that out

1 real quick?

2 A. Yep.

3 Q. Okay. During the relevant period,
4 how would -- and again, understanding that's
5 February 2012 to approximately August 2016, how
6 would you describe the BOP's relationship with
7 CCA?

8 A. I'm not sure --

9 MR. FORGE: Objection, vague.

10 THE WITNESS: Yeah. I think it's
11 vague too. I'm not sure I understand
12 the -- the question.

13 BY MS. TOMKOWIAK:

14 Q. Sure.

15 Well, do you agree that the BOP had a
16 relationship with CCA as a -- a private
17 institution that it partnered with to operate
18 correctional facilities?

19 A. Yes, I agree.

20 Q. Okay. And how would you, the person
21 who worked at the BOP and who personally
22 interacted with CCA at times and who staffed it
23 as well, how would you describe the nature of
24 that relationship during the relevant time
25 period?

1 MR. FORGE: Same objections, vague.

2 THE WITNESS: We had a professional
3 working relationship.

4 BY MS. TOMKOWIAK:

5 Q. Would you say that the nature of that
6 relationship stayed the same throughout those --
7 the entire four-year period?

8 MR. FORGE: Objection, vague as to
9 nature of the relationship. Do you mean
10 as -- as contractor and contractee?

11 MS. TOMKOWIAK: Jason, you guys
12 have been pretty adamant about objecting
13 to form, so I would appreciate the same
14 courtesy. You can -- you know, I
15 understand your objection and that it's
16 vague.

17 MR. FORGE: So you're saying if I
18 object to form, you're allowing me to
19 preserve all preservable objections; is
20 that right?

21 MS. TOMKOWIAK: With the
22 understanding that that's mutual, yes.

23 MR. FORGE: Yeah. I mean, you guys
24 haven't been doing it, but I'm -- I'm
25 happy to do it.

1 So if I object to form, that
2 preserves all objections that I could have
3 raised, right?

4 MS. TOMKOWIAK: I agree. I agree.

5 MR. FORGE: Okay. Then I object as
6 to form.

7 MS. TOMKOWIAK: Okay.

8 BY MS. TOMKOWIAK:

9 Q. Okay. So my question was would you
10 say that the nature of the relationship stayed
11 the same throughout the entire four-year period?

12 MR. FORGE: Object to form.

13 THE WITNESS: It was always a
14 professional relationship.

15 BY MS. TOMKOWIAK:

16 Q. During your time as PMB
17 administrator, would you say that that
18 relationship improved over time?

19 MR. FORGE: Object to form.

20 THE WITNESS: I'm not sure how to
21 answer that. Again, we had a professional
22 working relationship.

23 BY MS. TOMKOWIAK:

24 Q. Okay. Well, would you say over the
25 four-year period that that relationship

1 deteriorated at any point in time?

2 MR. FORGE: Object to form.

3 THE WITNESS: I believe it was a
4 professional working relationship
5 throughout my tenure in my position.

6 BY MS. TOMKOWIAK:

7 Q. And the events that you describe at
8 length in your report -- you go through, you
9 know, a chronology of events with respect to each
10 of the five facilities -- is it your opinion
11 that -- that none of those events had any impact
12 on the nature of the BOP's relationship with CCA
13 at any point over that four-year period?

14 MR. FORGE: Object to form.

15 THE WITNESS: Again, I guess I'm
16 not understanding the question. When I
17 think of relationship, we had a, you know,
18 contractor -- you know, professional
19 working relationship with CCA.

20 BY MS. TOMKOWIAK:

21 Q. What -- what about with respect to
22 the -- the BOP's, you know, view of CCA as a
23 contractor? I mean, did that stay the same over
24 the -- the four-year period?

25 If -- if relationship is the word

1 that you're struggling with, what about the BOP's
2 perspective or their view of CCA as a contractor?
3 Did that stay the same?

4 MR. FORGE: Object to form.

5 THE WITNESS: I could say how we
6 thought of their performance over time
7 changed.

8 BY MS. TOMKOWIAK:

9 Q. How did -- how did the -- what the
10 BOP thought of CCA's performance change over
11 time?

12 A. Frustration, disappointment in not
13 correcting the repetitive deficiencies.

14 Q. So would you say that that
15 frustration and disappointment occurred over some
16 period of time in that four-year period?

17 A. I -- during the period in which they
18 were having serious and repetitive deficiencies
19 identified at their facilities and not
20 maintaining minimum staff requirements, once we
21 got into that and it was just continuous, then,
22 again, just continued disappointment, frustration
23 with CCA not being able to correct these issues.

24 Q. Okay. And that -- and that
25 disappointment and frustration, would you say

1 that increased every time the BOP perceived that
2 CCA could not correct these issues?

3 A. I don't know that you could say it
4 increased.

5 Q. Okay. You can't -- can't say one way
6 or the other?

7 A. It continued.

8 Q. Did it decrease?

9 A. I'm thinking of where they were as I
10 retired. I'm not sure. I don't recall.

11 Q. Okay. Well, we can -- we can talk
12 about that more later. Just three more questions
13 and then let's take a break.

14 Are you aware that the defendants in
15 this case have produced over 420,000 documents
16 from CoreCivic's files?

17 A. No, I was not aware of the total
18 number.

19 Q. Okay. Are you aware that the BOP has
20 produced nearly 190,000 documents from its files?

21 A. I was not aware of the total number,
22 no.

23 Q. Would it surprise you to learn that
24 your name appears on over 12,000 of those
25 documents?

1 A. No, it would not.

2 MS. TOMKOWIAK: All right. Let's
3 go ahead and go off the record.

4 MR. FORGE: That's fine.

5 Can I -- Misty, can I ask, is there
6 realtime today?

7 VIDEO OPERATOR: It is 11:46 a.m.
8 and we are now off the record.

9 (Thereupon, a brief recess was
10 taken.)

11 VIDEO OPERATOR: Okay. The time is
12 12:06 p.m. and we are now on the record.

13 BY MS. TOMKOWIAK:

14 Q. Ms. Mellendick, can you turn back to
15 your report?

16 A. Um-hmm (affirmative).

17 Q. Okay. And if you look at page 3,
18 paragraph one at the very top of that page.

19 A. Okay.

20 Q. Is that a fair summary of what you
21 were asked to opine on in this case?

22 A. It is.

23 Q. Is it fair to say that you are not
24 offering any opinions on CCA's performance of its
25 contracts with the U.S. Marshals?

1 A. Correct.

2 Q. Is it fair to say that you're not
3 offering any opinions on CCA's performance of its
4 contracts with ICE?

5 A. Correct.

6 Q. Fair to say that you're not offering
7 any opinions on CCA's performance of its
8 contracts with any other business partner besides
9 the BOP?

10 A. My opinions are only based on the
11 contracts that are listed in this report: Adams,
12 Cibola, Eden, McRae and Northeast Ohio during the
13 relevant time frame.

14 Q. Did you make any effort to compare
15 the quality of the services provided by CoreCivic
16 relative to the quality of services provided by
17 the BOP?

18 A. I did not.

19 Q. You don't intend to offer any opinion
20 on that at trial, correct?

21 A. I believe I stated in my report that
22 it is not an apples-to-apples comparison.
23 They're very different.

24 Q. To that end, you did not conduct any
25 analysis of the number or nature of deficiencies

1 documented at any BOP-operated facility during
2 the relevant time period?

3 A. I did not, because it would not have
4 been a true comparison.

5 (Remote transmission interference)

6 MS. REPORTER: Sorry? I'm sorry.

7 THE WITNESS: I didn't hear it
8 either.

9 BY MS. TOMKOWIAK:

10 Q. That's not something you looked at,
11 right?

12 A. What -- what was -- I'm sorry. You
13 cut out and I didn't hear you, so --

14 Q. I said but -- but just to be clear,
15 that's not something that you looked at?

16 A. I'm not sure -- what was it --

17 Q. I think you answered it before and
18 I -- I just wanted to be clear.

19 You said you did not conduct any
20 analysis of the number or nature of deficiencies
21 documented at any BOP-operated facility during
22 the relevant time period, right?

23 A. Correct.

24 MR. FORGE: Hold on.

25

1 BY MS. TOMKOWIAK:

2 Q. Did you consider any publicly
3 available sources regarding the BOP's efforts to
4 staff its own facilities?

5 A. I did not.

6 Q. Okay. Didn't consider the United
7 States Government Accountability Office report
8 from September 2012?

9 A. I did not.

10 Q. Didn't consider the OIG's 2016 report
11 titled Review of the Federal Bureau of Prisons'
12 Medical Staffing Challenges?

13 A. I did not.

14 Q. Didn't review any congressional
15 testimony by the former director of the BOP,
16 Charles Samuels, in 2015?

17 A. I did not.

18 Q. You're familiar with the OIG's audit
19 of the Federal Bureau of Prisons' Monitoring of
20 Contract Prisons that was published in August
21 2016, right?

22 A. I am.

23 Q. And -- and you cited that in your
24 report as one of the documents that you
25 considered?

1 A. I did.

2 Q. Did you do any analysis of that data
3 to compare CCA's performance to that of the
4 BOP's?

5 A. I'm not sure what you mean.

6 Q. Did you utilize any of the
7 comparative data in the OIG's 2016 report in
8 forming your opinions?

9 A. I believe I may have cited in -- you
10 know, in support of my opinion I may have quoted
11 a line or two. I'd have to go back through
12 and -- and review for sure.

13 Q. Okay. Is it fair to say, though,
14 that you were focused on the data in that report
15 as it related to CCA's performance?

16 MR. FORGE: Object as to form.

17 THE WITNESS: Yeah. Can you ask
18 that -- the question again? I'm not sure
19 I understood it.

20 BY MS. TOMKOWIAK:

21 Q. Sure.

22 You said that you -- you might have
23 quoted a line or two in your report; is that
24 right?

25 A. Right.

1 Q. And -- and do you recall if that
2 related to the OIG's analysis of CCA's
3 performance at its facilities as opposed to the
4 BOP's?

5 A. Yes, it would have been regarding
6 CCA's performance if I did cite anything in my
7 report.

8 Q. Okay. If you can turn to page 5.
9 If you look at the first paragraph on
10 page 5 after the line that's numbered 29, so the
11 paragraph starting, Based on my review and
12 analysis of the evidence in this case, it is my
13 opinion, that paragraph.

14 Do you see that?

15 A. I do.

16 Q. All right. Is this a fair summary of
17 the opinions that you intend to offer in this
18 case?

19 A. It is.

20 Q. Is it a complete summary of the
21 opinions that you intend to offer in this case
22 based on what you know now?

23 MR. FORGE: Object as to form.

24 THE WITNESS: Yeah, I'm not sure --
25 I mean, this is a -- a summary of my

1 opinion and, you know, I have a lot of --
2 numerous pages after that that support my
3 opinion.

4 BY MS. TOMKOWIAK:

5 Q. Okay. Understood.

6 So this is -- in your -- this is a
7 fair summary of the opinions that you intend to
8 offer at trial and they are supported by the rest
9 of the information in your report; is that right?

10 A. Yes.

11 Q. All right. I want to talk a little
12 bit about some of the statements in the
13 background section of your report.

14 A. Okay.

15 Q. So in the first instance where you're
16 discussing performance-based contracts, you talk
17 about the award fee incentives that were
18 available to private operators.

19 Do you see that?

20 A. Yes.

21 Q. And it says in the second paragraph
22 under Background, first sentence, To motivate
23 exceptional performance, the majority of the
24 contracts during this period offered an award fee
25 incentive allowing for an award fee of up to

1 5 percent of the paid annual invoice for contract
2 performance exceeding a satisfactory level.

3 Do you see that?

4 A. I do.

5 Q. What did you mean by exceptional?

6 A. It -- what I meant by was that award
7 fee clause in those contracts was there to be a
8 motivator. The bureau wanted more than
9 satisfactory performance from any of its
10 providers.

11 Q. What's your basis for saying that,
12 that the bureau wanted more than satisfactory
13 performance?

14 A. That's why the award fee clause was
15 put in those contracts. We had that available to
16 us and that's what its intent is.

17 Q. Okay. And in order to receive an
18 award fee, as you say here, a contractor's
19 performance had to exceed a satisfactory level;
20 is that right?

21 A. Yes.

22 Q. And -- and what do you mean by
23 satisfactory?

24 A. There were definitions with the award
25 fees that would constitute what was acceptable,

1 what was not acceptable, what was exceeds, what
2 was superior.

3 Q. Would you agree with me that
4 satisfactory performance meant meeting the
5 contractual requirements?

6 A. Yes, I would agree with that.

7 Q. So an award fee was available for
8 performance that exceeded those contractual
9 requirements?

10 A. Yes.

11 Q. So then is it fair to say that a
12 contractor could be performing at a satisfactory
13 level and not receive an award fee?

14 A. Yes.

15 Q. You suggest here in this paragraph
16 that the McRae contract did not have this award
17 fee incentive; is that right?

18 A. It didn't have it on its most recent
19 contract that began in late 2012. It had it, the
20 award fee incentive, in the previous contract
21 that ended in -- I believe it was November of
22 2012.

23 Q. Okay. And are you aware that McRae,
24 in fact, received an award fee in March 2013 for
25 its performance in that period ending

1 November 30, 2012?

2 A. Yes.

3 Q. Did you consider that document in
4 forming the opinions in your report?

5 A. I'd have to go back and look. If you
6 want me to, I can.

7 Q. Well, I've -- I've looked and I
8 didn't see it listed in Exhibit 1 of your report.
9 But I guess rather than try to waste your time
10 trying to figure out if it's in there or not,
11 if -- if it's -- if I'm right and it's not in
12 there, does that mean you did not consider it?

13 A. Say that again.

14 Q. If it's -- if -- if the McRae award
15 fee is -- is not listed in Exhibit 1 of your
16 report, does that mean that you did not consider
17 it or do you believe that that's a -- just a
18 mistake and it should be listed there?

19 MR. FORGE: Objection as to form.

20 THE WITNESS: I'm not sure. I'd
21 have to go back and -- and search.

22 BY MS. TOMKOWIAK:

23 Q. Okay. So you don't know whether or
24 not you considered that document in forming the
25 opinions in your report?

1 A. Not off the top of my head without
2 checking my notes, no.

3 Q. If you go to paragraph -- the first
4 paragraph of page 7.

5 A. Okay.

6 Q. And paragraph number 8 there is
7 talking about Contractor Performance Assessment
8 Reporting System or CPARS. That's what we -- we
9 spoke about those briefly earlier.

10 Do you recall that?

11 A. I do.

12 Q. All right. And it says it's the
13 Federal Government-wide system used to capture
14 contractor report cards.

15 What do you mean by that?

16 A. That's what I understand it to be.
17 Any agency, any federal government agency that
18 has contracts, they use that system to rate the
19 contractor for a period of time on those areas
20 that I specify in that -- in that paragraph.

21 Q. Okay. Well, would you agree with me
22 that the CPARS is the official source of a
23 contractor's past performance?

24 A. I will say it is one source for the
25 Bureau of Prisons in which they documented

1 performance of a contractor's performance for a
2 given time frame.

3 Q. If -- if -- if the -- the FAR
4 describes it as the official source, you would
5 disagree with that?

6 MS. REPORTER: I'm sorry?

7 MR. FORGE: You're cutting out a
8 little bit when you turn away from the
9 mic.

10 MS. TOMKOWIAK: I'm sorry. I was
11 just looking at notes. I apologize.

12 BY MS. TOMKOWIAK:

13 Q. So if the -- if the federal
14 regulations describe that as the official source
15 for past performance information, you would
16 disagree with that?

17 A. I --

18 MR. FORGE: Object as to form.

19 THE WITNESS: I'm not an expert on
20 the FAR, but if it says that, I'm not one
21 to disagree with it.

22 BY MS. TOMKOWIAK:

23 Q. Okay. And are you familiar with the
24 various categories within each CPAR in which a
25 contractor is rated?

1 A. Like I have listed in my report,
2 quality of service, business relations,
3 et cetera?

4 Q. Correct.

5 A. Yes, I'm familiar with those
6 categories.

7 Q. And -- and you reviewed CPARS for CCA
8 throughout the relevant time period in connection
9 with this matter; is that right?

10 A. I did.

11 Q. Okay. In how many categories for all
12 of the CPARS that you reviewed did CoreCivic
13 receive a below satisfactory rating?

14 A. I'd have to go back and check my
15 notes, but I would believe marginal would
16 constitute below satisfactory. So I'd have to --
17 I'd have to go back through and count them.

18 Q. And so you'd -- you'd have to go back
19 through your notes to know how many times CCA
20 received a rating of marginal in any of those
21 categories?

22 A. Yes.

23 Q. And if I told you that was 10 out of
24 119 times that they were rated in those
25 categories, you just don't know one way or the

1 other if that's correct?

2 A. I don't.

3 Q. In every CPAR there's a section
4 labeled Recommendation; is that right?

5 A. I believe so, yes.

6 Q. Okay. And in that section the -- the
7 contracting officer, who I believe you testified
8 earlier was responsible for drafting the CPAR, is
9 required to say given whether -- given what the
10 contracting officer knows today about the
11 contractor's ability to perform the contract,
12 that they would or would not recommend the
13 contractor for similar requirements in the
14 future.

15 Are you aware of that language?

16 A. Yes. I believe there's like a check
17 box. They have a choice of one or two of those
18 statements.

19 Q. Did you review that section of the
20 CPAR in -- in forming the opinions in your
21 report?

22 A. Yes.

23 Q. I didn't see that section mentioned.
24 Was that intentional? Did you intentionally
25 exclude that from your report?

1 A. I didn't feel it was necessary for my
2 report.

3 Q. Why not?

4 A. Because I didn't. That is a -- a
5 check box that the contracting officer has to
6 check. So whether a contracting officer says
7 they would or would not -- I believe typically if
8 a contractor would -- would choose would not
9 recommend them, then that would mean that the
10 government would be looking toward terminating
11 that contract.

12 Q. So are you aware that in all of the
13 CPARS throughout the relevant time period no
14 contracting officer checked the box that they
15 would not recommend CCA for a similar contract?

16 A. I am aware.

17 Q. You are aware, okay.

18 But you just did not think that that
19 was, I think in your words, necessary to include
20 in your report?

21 A. I did not.

22 Q. If you look at the third paragraph on
23 page 7, it says, As this report will outline, CCA
24 often failed to provide satisfactory performance
25 at three of their five contracts, Adams, Cibola

1 and Eden, with the BOP, particularly in the areas
2 of health services and correctional services.

3 What does often mean?

4 A. It means more often than they did
5 provide satisfactory performance during that time
6 frame.

7 Q. Okay. So often means more than
8 50 percent?

9 A. Possibly.

10 Q. Okay. Well, I'm just trying to
11 understand because you said that you wrote every
12 word of your report. And so in choosing the word
13 often, what -- what did you mean to convey there?

14 A. There was a lot of performance issues
15 that were not at a satisfactory level.

16 Q. But you can't quantify that, other
17 than to say it means more often than they did
18 provide satisfactory performance during that time
19 frame?

20 A. Yes.

21 Q. And with respect to satisfactory
22 performance, we -- we talked earlier that
23 satisfactory means performing the contractual
24 requirements.

25 A. Yes.

1 Q. Okay. So -- so you're saying here
2 that CCA often failed to perform at a level
3 consistent with the contractual requirements?

4 A. Yes.

5 Q. Okay. Now, starting at Section V,
6 you have a chronology of performance and events
7 with respect to each of the five facilities that
8 CCA contracted with the BOP for in this time
9 frame; is that right?

10 A. Yes.

11 Q. What methodology did you use to
12 develop these chronologies?

13 A. I reviewed all the relevant documents
14 involving the performance of these contract
15 facilities during the relevant time frame.

16 Q. Did you do anything besides review
17 documents?

18 A. Not that I'm aware of.

19 Q. What part of your training that you
20 described earlier did you apply to develop the
21 chronology?

22 A. Well, as I mentioned, I spent
23 12 years in the bureau's program review division,
24 which was our own internal auditing division for
25 the agency. So I have over 12 years of

1 experience with auditing in a correctional
2 environment.

3 Q. And how did you use that auditing
4 experience to develop these chronologies?

5 A. Basic review of all of the documents
6 and putting all the information together and it
7 painted the picture.

8 Q. Okay. So you reviewed documents and
9 you summarized them here; is that right?

10 A. Yes.

11 Q. What is the relevancy of this
12 chronology to your opinions?

13 A. I'm not sure I understand the
14 question.

15 Q. I'm trying to understand how this --
16 this chronology fits into your opinions.

17 Is this support for your opinions?

18 Is this just background that's helpful to a

19 reader to know before they get to your opinions?

20 How does this chronology fit into your opinions?

21 A. Well, I think both of what you just
22 said. I think it helps show each facility's
23 issues with performance. And then later on in my
24 report I summarize them as a whole as far as
25 CCA's performance as a company amongst all of

1 their facilities.

2 Q. You personally participated in
3 several of the events that are described in here;
4 is that right?

5 A. Such as?

6 Q. Such as the CFMs that I believe you
7 said that you would have been kept in the loop on
8 or there's a discussion of the disturbance at
9 Adams. There's a discussion of award fees. So
10 those are just a few examples of some of the
11 events that you would have had some personal
12 firsthand knowledge of during your time at the
13 BOP; is that right?

14 A. That is right.

15 Q. Okay. And, again, that's not an
16 exhaustive list, but there -- there are others in
17 here as well, right?

18 Is that right?

19 A. Yes, I believe so.

20 Q. Do you plan to testify at trial that
21 these events happened?

22 MR. FORGE: Object as to form.

23 THE WITNESS: I assume so, if
24 it's -- if I'm questioned about it.

25

1 BY MS. TOMKOWIAK:

2 Q. Okay. And is that true with respect
3 to only the events that you would have had some
4 firsthand involvement with or is that true with
5 respect to all of the events that are summarized
6 in the documents that you reviewed?

7 MR. FORGE: Object as to form.

8 THE WITNESS: I'm not sure I can
9 answer that question. I think it would
10 depend on what I'm asked of.

11 BY MS. TOMKOWIAK:

12 Q. Okay. So if it's -- if it's -- if
13 you are asked about a specific event to which you
14 have firsthand contemporaneous knowledge, then
15 you believe that -- that you could testify that
16 that event actually happened at trial?

17 A. Yes, I --

18 MR. FORGE: Object as to form.

19 BY MS. TOMKOWIAK:

20 Q. I'm sorry, what was your answer?

21 A. Yes, I believe so.

22 Q. Okay. If we look at the -- the first
23 chronology with respect to the Adams facility, if
24 you look at the first paragraph, you say in the
25 very last sentence about halfway through that It

1 is important to note less-than-acceptable
2 performances at this facility.

3 What did you mean by less than
4 acceptable?

5 A. Just what it means, less than
6 acceptable. It was not acceptable to the Bureau
7 of Prisons.

8 Q. Well, does acceptable -- is
9 acceptable the same as satisfactory?

10 A. In my mind, it is.

11 Q. Okay. Yeah, and that's all I'm
12 asking for.

13 So you would use acceptable and
14 satisfactory interchangeably?

15 A. Yes.

16 Q. Okay. If you turn to bottom of page
17 9, the top of page 10 --

18 A. Okay.

19 Q. -- you're referring here to award
20 fees for Adams and you say that From the
21 beginning of this contract in 2009 through
22 March 2017, no award fees were awarded for five
23 of those eight years.

24 And then In the other three years,
25 CCA only achieved a slightly above satisfactory

1 award fee rating and minimal award fee amounts.

2 Do you know which three years you're
3 referring to there?

4 A. I can glance at my notes and tell
5 you.

6 Q. Okay.

7 A. They received award fees for the
8 rating period April of 2011 through March of
9 2012; April of 2013 to March of 2014; and April
10 of 2015 to March of 2016.

11 Q. And when you -- when you're looking
12 at your notes, I'm sorry, what are you referring
13 to? What notes do you have?

14 A. The documents and just a chronology
15 of everything kind of compiled.

16 Q. Okay. So -- so that's something
17 separate than your report?

18 A. Yes.

19 Q. Did you review the award fee letters
20 for those three years?

21 A. Yes.

22 Q. Okay. Do you know why they're not
23 listed on Exhibit 1 of your report?

24 A. No, I do not.

25 Q. And I see in paragraph 10 where

1 you're talking about BOP award fee determination
2 letters and then you refer to Bates numbers cited
3 in this paragraph. I don't see any Bates numbers
4 cited in that paragraph.

5 So is that just a -- a typo or did
6 you mean to cite something there?

7 A. That -- that is -- we were putting
8 Bates numbers in there just so -- as I was
9 checking my -- like fact-checking my report and
10 later went in to take them out because it was
11 very convoluted being in paragraph format. So
12 that was something that was overlooked in coming
13 out of the final report.

14 Q. Okay. And you said we were putting
15 Bates numbers in there.

16 Who are you referring to?

17 A. I was referring to myself.

18 Q. Okay.

19 A. Me. I was.

20 Q. And then the very last sentence on
21 page 10 -- the very last two sentences say that
22 The Adams County Correctional Center contract
23 expired on July 31, 2019. The contract completed
24 its full 10-year lifespan.

25 Do you see that?

1 A. I do.

2 Q. The BOP never terminated its contract
3 with CCA for the Adams facility?

4 A. It did not.

5 Q. Do you agree with me that it could
6 have?

7 MR. FORGE: Object as to form.

8 THE WITNESS: I believe there were
9 periods of time throughout the life of
10 that contract that the bureau could have
11 considered termination.

12 BY MS. TOMKOWIAK:

13 Q. Well, BOP can terminate a contract
14 with a private operator at any time, right, for
15 any reason?

16 MR. FORGE: Object as to form.

17 THE WITNESS: Correct.

18 BY MS. TOMKOWIAK:

19 Q. You discuss in here a disturbance
20 that took place at the Adams facility in 2012.
21 That took place during the time that you were the
22 PMB administrator; is that right?

23 A. That is correct.

24 Q. Did you think that CCA's contract
25 should be terminated after that disturbance?

1 A. Not necessarily as a result of just
2 that disturbance.

3 Q. Okay. Well, did you think that CCA's
4 contract should be terminated as a result of that
5 disturbance plus other factors?

6 A. There were times when I recall
7 discussing with my counterparts our feelings
8 about moving forward with this particular
9 contract.

10 Q. What times specifically, do you
11 recall?

12 A. I believe it was when we were looking
13 at exercising their option year, which I think
14 was 2013.

15 Q. Okay. So you recall discussing that,
16 but a decision was made not to terminate the
17 contract, right?

18 A. The decision was made to exercise the
19 option year.

20 Q. If you look at the next page -- and
21 this is under your heading Performance Synopsis
22 of the Adams County Correctional Center Contract.

23 A. I see that.

24 Q. Okay. And so you say in the second
25 paragraph, CCA's performance on the Adams County

1 Correctional Center contract for the time frame
2 of this case achieved only overall satisfactory
3 or below satisfactory levels, contrary to the
4 BOP's expectations.

5 Do you see that?

6 A. I do.

7 Q. So is it your opinion that the -- the
8 BOP expected its contractors to perform at a
9 higher-than-satisfactory level?

10 A. Yes.

11 Q. Is that stated in the contract?

12 A. That's why the award fee provision
13 was put in the contracts, to motivate the
14 contractors to give us more than just acceptable
15 performance.

16 Q. To motivate, but the -- the -- the
17 requirements of the contract mandated
18 satisfactory performance as we discussed, right?

19 A. Correct.

20 Q. Was this expectation of higher than
21 satisfactory performance communicated to CCA in
22 some way other than the award fee incentives that
23 were in the contract?

24 A. Yes.

25 MR. FORGE: Object as to form.

1 BY MS. TOMKOWIAK:

2 Q. What was your answer?

3 A. Yes.

4 Q. How so?

5 A. Like I talked about, we had routine
6 partnering meetings with our providers.

7 Q. And what was said during those
8 meetings to communicate that the BOP expected
9 higher than satisfactory performance?

10 A. What we communicated was our
11 dissatisfaction of continued performance
12 failures, particularly when it came to health
13 services and minimum staffing levels and them
14 continually not to meet those requirements.

15 Q. Okay. So you communicated -- you
16 communicated your disappointment that CCA had not
17 achieved satisfactory performance; is that right?

18 A. We communicated our disappointment
19 that they continued to have serious and
20 repetitive deficiencies that they were not
21 correcting. They were not maintaining minimum
22 staffing requirements.

23 Q. And all of those issues were issues
24 that meant their performance had fallen below
25 satisfactory in your opinion?

1 A. Yes. When issues are repetitive in
2 nature and they are not correcting them, one of
3 the vital functions that holds 10 percent of the
4 contract value is the contractor's quality
5 control plan. They are supposed to have a
6 quality control plan in place to prevent the
7 serious and repetitive issues from becoming
8 problematic.

9 Q. Okay. Understood, but I -- I wanted
10 to focus, then, on was anything said at those
11 partnering meetings to communicate the BOP's
12 expectation that they -- that CCA needed to
13 perform at a higher than satisfactory level?

14 A. We communicated the fact that we
15 expected them to correct the deficiencies.
16 That's what we communicated.

17 Q. Okay. You said that you reviewed
18 the -- the rebuttal report submitted by
19 Mr. Dodrill in this case.

20 A. Yes, I did.

21 Q. Okay. And in that report, which we
22 can absolutely look at if -- if you want to, I
23 was just going to quote a very small portion of
24 it where Mr. Dodrill says that while he was at
25 the BOP, the BOP director stressed that he

1 expected nothing more than satisfactory
2 performance from BOP facilities.

3 Do you disagree with that statement?

4 A. Which director is he referring to?

5 Q. The BOP director in place during his
6 tenure at the BOP, regardless of who was in that
7 position.

8 MR. FORGE: Objection.

9 THE WITNESS: That would have been
10 Harley Lappin, who is now -- now on the
11 board of directors for CCA?

12 BY MS. TOMKOWIAK:

13 Q. Yes. At one point, yes.

14 A. That is not something that I ever
15 heard Mr. Lappin say -- say directly. The
16 program review process, you know, involved
17 several different ratings and acceptable was like
18 the medium level of rating and I know that all
19 BOP wardens strive to have their departments do
20 better than acceptable.

21 Q. Okay. With respect to the BOP
22 wardens; is that right?

23 A. Oh, I'm sorry. Was that a question?

24 Q. I just wanted to see if I understood
25 it.

1 A. Yes, with respect to the BOP.

2 Q. Okay. Why wouldn't the BOP just
3 change its contracts to include higher standards
4 if that was the case?

5 MR. FORGE: Object as to form.

6 THE WITNESS: I'm not sure I
7 understand your question.

8 BY MS. TOMKOWIAK:

9 Q. Well, as I understand your opinion,
10 the BOP expected higher than satisfactory
11 performance from its contractors. And if that's
12 the case, why wouldn't they just change the
13 contract to include higher standards?

14 MR. FORGE: Object as to form.

15 THE WITNESS: I'm still not -- I'm
16 still not sure I totally understand what
17 you're asking of me and how to respond to
18 that.

19 BY MS. TOMKOWIAK:

20 Q. What don't you understand?

21 A. Say it -- repeat the question again.

22 Q. Sure.

23 As I understand your opinion, the BOP
24 expected higher than satisfactory performance
25 from its contractors. And if that's the case,

1 why wouldn't they just change the contract to
2 include higher standards?

3 MR. FORGE: Object as to form.

4 THE WITNESS: I don't know that
5 there is a way to change the standards in
6 the contract. I'm not -- well, yeah, I'm
7 having -- having a hard time
8 understanding.

9 BY MS. TOMKOWIAK:

10 Q. So you're -- I didn't mean to
11 interrupt, but are you saying you're having a
12 hard time with my question because you don't know
13 if that's possible?

14 A. I don't know that I -- I can answer
15 it. I don't -- I don't understand it.

16 Q. And is that because you don't have an
17 understanding of how the contracts could be
18 modified or amended?

19 MR. FORGE: Object as to form.

20 THE WITNESS: Contracts have basic
21 requirements outlined, become ACA
22 accredited, follow this bureau policy, do
23 this, do that.

24 Nowhere in the contract does it
25 really tell you in all of those areas what's

1 acceptable and what's not acceptable. I
2 guess that's what I'm trying to convey.

3 BY MS. TOMKOWIAK:

4 Q. Okay. I understand.

5 So you're saying that somewhere else
6 defines what it means to be satisfactory or
7 acceptable and what it means to exceed or -- or
8 fall below those standards, satisfactory and
9 acceptable?

10 A. I -- I believe so --

11 MR. FORGE: Object as to form.

12 THE WITNESS: -- yeah.

13 The -- the contractor needs to abide
14 by what's outlined in the contract and then
15 they're -- they're evaluated. And part of
16 that evaluation -- yeah, probably one of the
17 major ones was the CFM process where you had
18 experts to come in and evaluate are they
19 meeting what they say they're going to do in
20 their contract and their policies.

21 And their findings will help to
22 convey how well they're doing in those
23 areas. And then that contributes to whether
24 or not they're performing satisfactory,
25 above satisfactory, below satisfactory.

1 BY MS. TOMKOWIAK:

2 Q. Okay. And if the -- the BOP set the
3 definitions for what it -- what it meant to be
4 satisfactory or below satisfactory or above
5 satisfactory, right?

6 A. In what format?

7 Q. In -- in any format, in any audit
8 where the BOP was conducting an audit or rating
9 CCA and determining how to rate their
10 performance, that was based on definitions that
11 the --

12 A. No.

13 Q. -- BOP came up with.

14 It wasn't -- CCA didn't define what
15 it meant to be satisfactory, the BOP did, right?

16 MR. FORGE: Object as to form.

17 THE WITNESS: No, there were no
18 ratings assigned other than -- CFM team
19 did not assign a rating. My -- the
20 on-site staff that worked at each facility
21 never provided a rating based on what they
22 saw on a daily basis.

23 BY MS. TOMKOWIAK:

24 Q. Okay. Well, then, when you're
25 talking in your opinions about CCA's performance

1 achieving only a satisfactory level or below
2 satisfactory and sometimes contrary to the BOP's
3 expectations, what expectations are you referring
4 to?

5 A. I was referring to where ratings were
6 assigned, whether it be the award fee and
7 probably CPARS.

8 Q. Okay. Other than those two types of
9 documents, anything else?

10 A. Not that I recall that assigned a
11 rating.

12 Q. Okay. If you look at the last
13 sentence of that second paragraph, the very last
14 clause says that more than 1.5 million in
15 deductions were imposed at -- at Adams for
16 inadequately performed services.

17 Do you see that?

18 A. I do.

19 Q. Did you do any analysis to determine
20 or understand what those deductions represented
21 in terms of the overall value of the contract?

22 A. I did not.

23 Q. And you don't intend to offer any
24 opinions on that at trial, right?

25 A. I do not.

1 Q. Does the BOP impose any financial
2 deductions against its own facilities?

3 A. Against its own Bureau of Prisons
4 facilities?

5 Q. Um-hmm (affirmative).

6 A. Not that I'm aware of.

7 Q. Did you compare the deductions
8 received by CCA during the relevant time period
9 to the deductions received by any other private
10 prison operator during that same time frame?

11 A. I did not.

12 Q. Okay. We want to look at the Cibola
13 chronology next.

14 At the bottom of page 11, the very
15 last paragraph, you discuss an inmate
16 demonstration that Cibola experienced in
17 March 2013.

18 Do you see that?

19 A. I do.

20 Q. And the last sentence starting on
21 page 11 says, I recall it was a BOP oversight
22 staff member, the SSIM, who was responsible for
23 bringing this demonstration to a peaceful end.

24 And then the -- the sentence goes
25 on -- and I'm happy to read the rest of it, but

1 my -- my question is, is that based on anything
2 but your recollection?

3 A. It's based on my recollection.

4 Q. Okay. So there's no report from this
5 incident that you reviewed?

6 A. No, as I went on to further share in
7 that paragraph that CCA was very unwilling to
8 share any information about that disturbance.

9 Q. Okay. So -- and, again, that -- that
10 also is based on your recollection of this event
11 from March 2013; is that right?

12 A. It is.

13 Q. So then is it fair to say that where
14 indicated in this chronology, certain of the
15 events are based on your review of documents, but
16 others are based on your recollection?

17 A. Well, as I said, in my experience, so
18 that falls under my experience.

19 Q. Okay. Your recollection is part of
20 your experience?

21 A. Yes.

22 Q. Was there any instances in which your
23 recollection was inconsistent with the document
24 that you reviewed?

25 A. Not that I recall.

1 Q. And if presented with a -- a document
2 like that at trial, do you intend to testify
3 based on your recollection or what's in the
4 document?

5 MR. FORGE: Objection as to form.

6 THE WITNESS: I would have to take
7 the document into consideration obviously.

8 BY MS. TOMKOWIAK:

9 Q. Do you recall whether this
10 particular -- particular SSIM spoke Spanish?

11 A. Yes, he did.

12 Q. And then you say that the BOP was
13 extremely frustrated with CCA.

14 Who at the BOP was extremely
15 frustrated?

16 A. The administration within PMB and
17 PCC. Both branches were frustrated.

18 Q. Okay. Does that include yourself?

19 A. It does.

20 Q. Okay. You go on in this chronology
21 to -- to talk about the fact that in July 2016
22 the BOP decided not to exercise the second option
23 period of its contract with CCA for Cibola; is
24 that right?

25 A. Yes. What page are you on? Let me

1 catch up to you.

2 Q. It is at the top of --

3 A. I see. Page 15?

4 Q. Yeah. And that was after you had
5 retired from the BOP, correct?

6 A. Correct.

7 Q. So in this case, you don't have any
8 firsthand knowledge of the reasons why the BOP
9 decided not to continue with that contract?

10 A. No, other than what is stated in
11 their written document.

12 Q. Okay. So other than what you read in
13 the document you cite here, which is the contract
14 determination not to exercise option, performance
15 period two?

16 A. Yes.

17 Q. On the last paragraph of that
18 performance synopsis of the Cibola County
19 Correctional Center contract --

20 A. Okay.

21 Q. -- you say, As a result of CCA's
22 inability to perform in the area of health
23 services, the BOP determined it was not in the
24 government's best interest to continue this
25 contract.

1 Is it your opinion that CCA's
2 inability to perform in the area of health
3 services was the only reason the BOP determined
4 not to continue that contract?

5 A. It was, I believe -- it was one of
6 the reasons. They also cited market value. So
7 they cited price. But I believe that was, in my
8 opinion, the main focus of them deciding not to
9 renew the option years for Cibola.

10 Q. So you agree that there were other
11 factors, but in -- including price, but in your
12 opinion, the main focus was the performance in
13 the area of health services? That's your
14 opinion?

15 A. That is my opinion.

16 Q. And -- and, again, that is based on
17 the document listed here on page 15, the contract
18 determination not to exercise option performance
19 period two?

20 A. It's based on that document and then
21 all the other supporting document that documents
22 the problems in their performance.

23 Q. The documents that are listed here in
24 this chronology?

25 A. Yes.

1 Q. You also say that -- in that last
2 paragraph that Declining to exercise option years
3 of a private prison contract based on poor
4 performance is an extremely rare occurrence in
5 the BOP.

6 What is your basis for saying that?

7 A. Based on my experience in working
8 within PMB and prior to that, my experience in
9 PRD with my access to the information that CFM
10 was under my supervision.

11 Q. Did you -- you had mentioned earlier,
12 I believe when we were discussing the
13 solicitation process, that trends in prison
14 population growth can -- can impact the decision
15 at least in terms of whether or not to solicit --
16 solicit bids for additional beds.

17 Did you consider trends in population
18 growth at all in forming your opinion that this
19 was an extremely rare occurrence in July 2016?

20 A. I considered it, yes.

21 Q. And what impact, if any, did that
22 have on your opinion?

23 A. It did not have an impact. At the
24 time, the Bureau of Prisons was starting to see a
25 decline in the prison population. However,

1 Bureau of Prisons was still reawarding contracts
2 and going out for more bids. And they also had
3 other facilities that were due for renewal of
4 option years within that same period -- that same
5 year and those facilities were continued.

6 Q. Which facilities were those?

7 A. I believe McRae would have been due
8 for their option year renewal because if they
9 began in 2012, their four-year base would have
10 been coming due the end of 2016.

11 Q. Okay. If you can turn to page 22 of
12 your report.

13 A. Okay.

14 Q. Okay. And so at the top of the page
15 it says, Based on my review and analysis of the
16 evidence in this case, it is my opinion the
17 quality of CCA's performance in the majority of
18 their BOP private prison contracts for the time
19 frame of this case was largely deficient,
20 particularly with respect to their obligation to
21 provide quality healthcare and a safe and secure
22 environment to the inmate population.

23 You -- you wrote that, correct?

24 A. I did.

25 Q. And that's the opinion that -- one of

1 the opinions you intend to offer in this case?

2 A. It is.

3 Q. What -- what do you mean by the
4 majority?

5 A. I meant that three of the five CCA
6 facilities were not performing.

7 Q. Okay. And is it your opinion that
8 those three facilities -- and are you referring
9 to Adams, Cibola and Eden?

10 A. I am.

11 Q. Is it your opinion that their
12 performance was largely deficient for the entire
13 relevant time frame of the case?

14 A. For the entire period, not all three
15 of them, no.

16 Q. Okay.

17 A. But --
18 (Crosstalk)

19 Q. And --

20 A. -- a large portion of the relevant
21 time frame.

22 Q. And just -- just help me understand
23 that.

24 So for which -- which one of those
25 facilities would you say their performance was

1 not largely deficient for the entire relevant
2 time frame?

3 MR. FORGE: Object as to --

4 THE WITNESS: I would --

5 MR. FORGE: -- form.

6 THE WITNESS: I would say Eden.

7 Eden started to show a decline a little
8 bit later on into the relevant time
9 period.

10 BY MS. TOMKOWIAK:

11 Q. Okay. And -- and we can -- we can
12 look at your report.

13 On -- on page 18 I think you actually
14 say that Eden had achieved above satisfactory
15 performance levels for 2012 through early 2014.
16 That's on page 18.

17 Do you agree with that?

18 A. Yes.

19 Q. And so with respect to the other two
20 facilities, McRae and Northeast Ohio, you found
21 CCA's performance to be well above satisfactory;
22 is that right?

23 A. That is correct.

24 Q. And, in fact, the -- the BOP still
25 has a contract with CCA with respect to the McRae

1 facility today; is that right?

2 A. Yes.

3 Q. Going back to your opinion, what does
4 largely deficient mean?

5 A. Among those three facilities, they
6 had numerous and serious and repetitive
7 deficiencies.

8 Q. And when you say numerous, is there a
9 specific quantitative benchmark that you're
10 referring to?

11 A. Just looking at their specific
12 reports in any given area, depending on which
13 report it was, you know, across that time frame.
14 But, no, I didn't have a minimal number in mind,
15 if that's what you're asking.

16 Q. Yeah. So there's no threshold number
17 of deficiencies that you would say is required
18 before a performance becomes largely deficient?

19 A. Can you ask that one more time?

20 Q. Sure.

21 There's no threshold number of
22 deficiencies, in your opinion, required before a
23 contractor's performance becomes largely
24 deficient?

25 A. No --

1 MR. FORGE: Object as to form.

2 THE WITNESS: No, there's not. You
3 know, these facilities had some -- or just
4 a deficiency alone that would -- warranted
5 a significant finding.

6 One of the deficiencies across the
7 board was mismanagement of -- of medical
8 care that contributed to inmate deaths. So
9 that alone is alarming and largely
10 deficient, in my mind. So, no, there's no
11 threshold.

12 BY MS. TOMKOWIAK:

13 Q. Okay. Is there any definition of
14 largely deficient that you're relying upon there?

15 A. No.

16 Q. So it's just a standard that you
17 created?

18 A. Well, deficient is something that is
19 used in the Bureau of Prisons. You know, it's
20 used throughout my career with the program review
21 division. You know, we have a -- when we
22 identified areas of nonconformance, when we
23 reviewed the facilities, they were called
24 deficiencies. So I thought the phrase largely
25 deficient was appropriate to summarize their

1 performance.

2 Q. Okay. But that's not a -- a term
3 that the BOP has used itself?

4 A. They use deficient.

5 Q. Right. But -- but largely deficient
6 I think you just testified is the phrase that you
7 thought was appropriate to summarize their
8 performance?

9 A. Correct.

10 Q. Largely deficient compared to what?

11 A. I'm not sure what -- I understand
12 what you're asking. Compared to?

13 Q. Well, that -- that is what I'm
14 asking. So if their performance was largely
15 deficient --

16 A. Um-hmm (affirmative). Compared to
17 meeting contract requirements.

18 Q. Okay. You -- you testified earlier
19 that you've been involved in audits of both BOP
20 facilities and private facilities.

21 Is it fair to say that even a
22 high-performing facility can have multiple
23 deficiencies?

24 A. Yes.

25 Q. You also at the -- the last sentence

1 talks about with respect to their obligation to
2 provide quality healthcare and a safe and secure
3 environment.

4 Would you agree that this is one of
5 the most difficult areas of correctional
6 services?

7 A. Which --

8 MR. FORGE: Object as to form.

9 THE WITNESS: Where are you reading
10 from?

11 BY MS. TOMKOWIAK:

12 Q. Sure.

13 You say largely deficient,
14 particularly with respect to their obligation to
15 provide quality healthcare and a safe and secure
16 environment to the inmate population.

17 Would you agree that -- that this is
18 one of the most difficult areas of correctional
19 services?

20 MR. FORGE: Object as to form.

21 THE WITNESS: I believe all areas
22 of a -- a correctional setting are -- are
23 very important to the safe and secure
24 running of a -- of a correctional
25 facility.

1 BY MS. TOMKOWIAK:

2 Q. Okay. But setting aside whether
3 they're important, would you agree that some
4 aspects of providing correctional services are
5 more challenging to do than others?

6 A. Correctional services is the -- the
7 most important and the most basic requirement in
8 running a correctional institution.

9 Q. Okay. And are all aspects of that
10 equal or are some -- so take -- take recruiting
11 and retaining qualified medical personnel.

12 Isn't it fair to say that all
13 correctional facilities, including those operated
14 by the BOP, struggle with that?

15 MR. FORGE: Object as to form.

16 THE WITNESS: I'm not familiar with
17 the BOP and their recruitment efforts.
18 I'm not disagreeing that the Bureau of
19 Prisons did not have their fair share of
20 issues with recruit -- recruitment and
21 retention.

22 BY MS. TOMKOWIAK:

23 Q. Okay. If you look at the top of
24 page 23, paragraph two --

25 A. Okay.

1 Q. -- and I'm sorry, it's actually the
2 very last sentence of the first paragraph.

3 A. Okay.

4 Q. And it says that -- and -- and feel
5 free to read the -- the paragraph if -- if you
6 need to for context.

7 The last sentence says that -- refers
8 to a -- a meeting between the BOP and CCA
9 executives to, in your words, make clear that
10 CCA's performance was unacceptable and could not
11 continue in this manner.

12 Do you see that?

13 A. Yes.

14 Q. What meeting are you referring to
15 there?

16 A. I'm not referring to any one
17 particular meeting. We stress that throughout
18 the time period. We stress that during our
19 partnering meetings that we would have. We --
20 our on-site staff stressed it with the wardens at
21 those facilities. Our internal -- middle
22 management staff within PMB stressed that to
23 their counterparts amongst CCA.

24 There were times I recall CCA kind of
25 popping in on us in D.C. shortly after some of

1 these CFMs identified very serious problems and
2 asking to meet with us. We would typically
3 accommodate them if our schedule permitted.

4 These were very high levels of CCA.
5 I recall, you know, Mr. Hininger coming on
6 occasion, Mr. Nalley, Mr. Hall and stressing
7 their disappointment themselves and assuring us
8 of how they were going to fix it.

9 That's what that sentence references.

10 **Q. Okay. Did you attend any of those**
11 **meetings?**

12 A. I did.

13 **Q. And how was it -- how was it made**
14 **clear to CCA executives that their performance**
15 **was unacceptable?**

16 A. We told them that their performance
17 was unacceptable.

18 **Q. Okay. Do you have any notes of those**
19 **meetings or any documents reflecting what was**
20 **said at the time?**

21 A. I do not. I believe there are some
22 references to it in some of the internal CCA
23 E-mails that are part of the documents in this
24 case.

25 **Q. Okay.**

1 MS. TOMKOWIAK: Okay. If we could
2 go off the record.

3 THE WITNESS: Is this a break or --

4 VIDEO OPERATOR: Okay. The time is
5 1:14 p.m. and we are now off of the
6 record.

7 (Thereupon, a discussion was had off
8 the record.)

9 (Thereupon, at 1:14 p.m. CST, a lunch
10 recess was taken.)
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1 AFTERNOON SESSION (2:03 p.m. CST)

2 VIDEO OPERATOR: Okay. The time is
3 2:03 p.m. and we are back on the record.

4 BY MS. TOMKOWIAK:

5 Q. Okay. Ms. Mellendick, during the
6 break you told me that you wanted to clarify
7 something. What did you want to clarify?

8 A. Yes. Before we broke some of the
9 questions that you had where we were talking
10 about the Adams County award fees, where there
11 were three instances over eight years where they
12 did receive award fees. And you had mentioned
13 that they weren't listed in my appendix as a
14 document that I referenced. And that surprised
15 me, so I went back to check that during the break
16 and they are listed in my list of documents in my
17 report.

18 And if you want --

19 Q. Where --

20 (Crosstalk)

21 BY MS. TOMKOWIAK:

22 Q. Where are they listed? Do you want
23 to just give me the -- the Bates numbers or --

24 A. Yeah, I can give it to you. Let me
25 know when you're ready.

1 Q. I'm ready.

2 A. Okay. The first one is
3 CORECIVIC_0044374.

4 Q. Okay.

5 A. Next one is CORECIVIC_0990186. And
6 the last one is CORECIVIC_1337426.

7 Q. Okay. All right. I appreciate that
8 clarification.

9 A. Sure.

10 Q. And did you -- did you check that out
11 yourself or was that in consultation with your
12 counsel during the break?

13 A. I checked that out myself.

14 Q. All right. If we can go to page 23
15 of your report.

16 Do you still have that in front of
17 you?

18 A. I do.

19 Q. So at -- around the bottom of the
20 page, number 2, before the break we were
21 discussing what I'll call your first opinion.
22 Is -- is it fair to call this paragraph 2 your
23 second opinion?

24 A. That's fair.

25 Q. Okay. And so in this opinion you --

1 you say that the CAR XV awards in late 2014
2 concretely determined the BOP would not grant CCA
3 a new contract based on their poor past
4 performance. However, in my opinion, the BOP
5 would have been reluctant to award a new contract
6 to them for this same reason as far back as
7 April 2013. And then you elaborate on that.

8 Do you see that?

9 A. I do.

10 Q. What is the threshold by which you
11 determined the BOP would have been reluctant to
12 award CCA a contract as far back as April 2013?

13 A. Well, I looked at where the
14 facilities were with the -- the varying
15 performance documentation and how they were
16 performing as far as the types and number and
17 repetitive nature, serious nature of the
18 deficiencies at -- at their facilities.

19 And around that time frame is where,
20 I believe, in my opinion, that had the BOP be
21 looking -- been looking to award a -- a new
22 contract, that the BOP could have been reluctant
23 to award to CCA just based on performance to that
24 time frame.

25 Q. So I want to break that down a bit.

1 So when you talk about the
2 performance documentation, are you referring to
3 the CFMs?

4 A. Yes.

5 Q. Anything besides the CFMs?

6 A. Probably I would have looked at
7 CPARS. I would have looked at their number of
8 NOCs that were identified by oversight staff
9 on-site. I would have looked at deductions
10 possibly. Probably looked at oversight facility
11 reports, any documentation and award fee letters.

12 Those would be examples of what I
13 looked at.

14 Q. So was there any particular event in
15 April 2013 at -- that is the catalyst for the BOP
16 becoming reluctant to award CCA a new contract?

17 A. That was probably the time frame of
18 one of the CFMs that was -- that had some serious
19 deficiencies.

20 Q. Okay. So, for example, the Cibola
21 annual CFM was conducted April 23rd to 25th?

22 A. 2013?

23 Q. 2013, correct.

24 A. So that might have been around
25 like -- among other things, that might have

1 been -- yeah.

2 Q. Okay.

3 A. That was probably one of the main
4 factors.

5 Q. Probably one of the main factors.
6 But are you saying that -- I guess I'm trying to
7 understand what you mean by April 2013.

8 Is it April 1st? Is it April 23rd?
9 Is it April 30th? Is it any -- just at some
10 point during the month of April?

11 A. Just around that time frame, around
12 that month, around that time of year, based on
13 all the documentation I looked at to date where
14 their -- their issues were.

15 Q. Okay. So in March 2013, in your
16 opinion, the BOP would not yet have been
17 reluctant to award a new contract to CCA?

18 A. If I said April, I'm sure there's
19 information, documentation that occurred in
20 April, possibly the CFM at Cibola that we just
21 talked about, that probably would have led me to
22 believe that April was more of an appropriate
23 month in -- of that year to indicate that the BOP
24 may have been reluctant to award.

25 Q. Okay. And -- and so just to be

1 clear, the -- the -- the point of us having this
2 deposition today is for me to fully understand
3 what you're going to testify to at trial so that
4 there aren't any surprises and I understand the
5 scope of your opinions.

6 And so I just want to be clear. You
7 said if I said April. You did say April. You
8 said April 2013. And I -- I want to understand
9 why you chose that. And it sounds like you're
10 saying you -- you listed a number of different
11 performance documentation.

12 Is there -- is there anything else?

13 A. Other than the documents and -- that
14 I reviewed that I --

15 Q. Okay.

16 A. -- just mentioned.

17 Q. All right. And so with respect to
18 March 2013, in your opinion, would the BOP have
19 been reluctant to grant CCA a new contract?

20 A. I don't know.

21 Q. You don't know one way or the other?

22 A. In my report, in my opinion, I say
23 April of 2013.

24 Q. Right. So in your opinion, the
25 earliest point in time that the BOP would have

1 been reluctant to award a new contract to CCA is
2 April 2013?

3 MR. FORGE: Object to form.

4 THE WITNESS: Yeah. I'm sorry.

5 Can you repeat that question?

6 BY MS. TOMKOWIAK:

7 Q. Sure.

8 So in your opinion, the earliest
9 point in time that the BOP would have been
10 reluctant to award a new contract to CCA is April
11 2013?

12 MR. FORGE: Object to form.

13 THE WITNESS: In my opinion, yes.

14 BY MS. TOMKOWIAK:

15 Q. And within the month of April, you
16 don't have an opinion as to a specific date upon
17 which the BOP became reluctant to award CCA a new
18 contract?

19 A. I would say that I was probably
20 referring to after the results of the Cibola CFM.
21 So at what point in time in April 2013 that
22 occurred.

23 Q. And that occurred -- we just looked
24 at it -- that occurred -- if you look on page 22,
25 it says Cibola's annual CFM was conducted

1 April 23rd to 25th 2013.

2 A. Correct.

3 Q. Okay. So you believe, as you sit
4 here today, that -- that you were -- let me put
5 it this way -- as you sit here today, that after
6 April 25th, that time, upon which the BOP would
7 have been reluctant award a new contract to CCA?

8 A. Yes.

9 Q. What do you mean by reluctant?

10 A. I believe -- obviously, you know, we
11 can't predict what, you know, contract award may
12 have been on the table and who the offerors were,
13 but I believe that based on performance at
14 several of the CCA facilities that the BOP would
15 have considered that in reviewing past
16 performance of that company and, based on what
17 information they had to date, would have been
18 reluctant to award to CCA.

19 Q. Can you quantify that reluctance?

20 Does that mean it's more likely than not?

21 A. No, I can't.

22 Q. Okay. So you don't -- you don't
23 have -- there's no quantification to that?

24 It's -- it's just -- let me just ask that:

25 So you -- just to be clear, you --

1 you -- you can't quantify what that reluctance
2 means, correct?

3 MR. FORGE: Object to form.

4 THE WITNESS: Correct.

5 BY MS. TOMKOWIAK:

6 Q. If you -- if you look on -- if you go
7 back to page 3 --

8 A. Okay.

9 Q. -- and at the top where it talks
10 about what you were asked to opine on in this
11 case, the second clause says, whether, and if so,
12 when its -- meaning CCA's -- past performance
13 ever reached a point as to render CCA unlikely to
14 win any competitively bid BOP contract, and
15 therefore unlikely to receive any additional BOP
16 business beyond the option years of existing
17 contracts.

18 Do you see that?

19 A. I do.

20 Q. So in your opinion, as of April 25,
21 2013, had CCA's past performance reached the
22 point so as to render it unlikely to win any
23 competitive bid BOP contract?

24 A. In my opinion, yes.

25 Q. And, in your opinion, as of April 25,

1 2013, had CCA's past performance reached a point
2 as to render CCA unlikely to receive any
3 additional BOP business beyond the option years
4 of existing contracts?

5 A. Can you repeat that question, please?

6 Q. Sure.

7 In your opinion, as of April 25,
8 2013, had CCA's past performance reached a point
9 as to render CCA unlikely to receive any
10 additional BOP business beyond the existing
11 years -- beyond -- excuse me -- the option years
12 of existing contracts?

13 A. Well, those are two separate things.
14 You have a new award and then you have option
15 years.

16 Q. Okay. Yeah, and I guess -- I
17 understand. And I'm just using the language from
18 paragraph three, where it -- it -- it says what
19 you were asked to opine on. And I'm just trying
20 to understand as of April 25, 2013, is that a
21 point in time, in your opinion, where CCA was
22 unlikely to receive any additional business
23 beyond the option years of its existing
24 contracts?

25 A. In my opinion, as of April 25th of

1 2013, I think it would have been unlikely for CCA
2 to be awarded a new BOP contract.

3 Q. Okay.

4 A. Yeah.

5 Q. And so on page 22 where you said that
6 they would be -- would have been reluctant, does
7 that mean you're using reluctant interchangeably
8 with it would have been unlikely?

9 A. I'm sorry, you cut out toward the end
10 there. The audio cut out.

11 Q. So on page 22 where -- can you hear
12 me now?

13 A. Now I can, yes.

14 Q. Sorry about that. That's why I came
15 into my office today, but apparently that did not
16 work.

17 So on page 23 -- sorry -- when we
18 talked about your second opinion and you said
19 that the BOP would have been reluctant to award
20 CCA a new contract, does reluctant mean unlikely?

21 A. I believe they have similar meanings,
22 yes.

23 Q. And -- and you are using -- as you
24 use them in your report, they have similar
25 meanings?

1 A. Correct.

2 Q. In your opinion, does unlikely mean
3 less than 50 percent? More than 50 percent? Can
4 you quantify the term unlikely?

5 A. I don't know that you can quantify
6 the term unlikely. Unlikely to me just is
7 doubtful, unlikely. I don't know that you can
8 quantify that.

9 Q. Was this reluctance or unlikeliness
10 communicated to CCA in April 2013?

11 MR. FORGE: Object as to form.

12 THE WITNESS: Not that I recall.

13 BY MS. TOMKOWIAK:

14 Q. Okay. So to your knowledge, no one
15 at the BOP communicated to COC -- I'm sorry --
16 CCA after April 25, 2013 that they were unlikely
17 to win a new contract?

18 A. To my knowledge.

19 Q. Now, you -- you say here -- we're
20 back on page 23 -- by this point in time, CCA had
21 demonstrated their inability to perform essential
22 services of the contracts, and then you include,
23 providing an effective quality control program
24 and maintaining minimum staffing requirements.

25 Are there other essential services

1 that support your opinion?

2 A. Can you -- I'm sorry, what paragraph
3 are we on?

4 Q. Page 23 --

5 A. Okay. I see it.

6 Q. -- paragraph --

7 A. I see it, the paragraph that you're
8 on. I'm sorry. I see it now.

9 Let me take a second to read it.

10 Okay. Okay. And, I'm sorry, can you
11 repeat your question based on that sentence?

12 Q. Sure.

13 I just -- you -- you say inability to
14 perform essential services and then you include
15 two services here, providing an -- an effective
16 quality control program and maintaining minimum
17 staffing requirements.

18 What other essential services of the
19 contracts do you believe CCA had demonstrated
20 their inability to perform as of April 2013?

21 A. It was based on the areas in which
22 the deficiencies were identified in their recent
23 CFM report and any NOCs they may have had, I
24 believe most of which fell in health services, at
25 least as far as the CFM deficiencies.

1 Q. When you're referring to the
2 contracts, are you referring to all five of the
3 contracts or are you referring to Cibola, Adams
4 and Eden?

5 A. At that point in time I'm referring
6 to the performance at Adams and at Cibola.

7 Q. Are you aware that after April 2013,
8 the BOP renewed the Adams contract?

9 A. Yes, I am.

10 Q. Are you aware that after April 2013,
11 the BOP renewed the Cibola contract?

12 A. Yes, I am.

13 Q. Are you aware that after April 2013,
14 the BOP renewed the Eden contract?

15 A. Yes, I am. Well, when you say renew,
16 they exercised their option years.

17 Q. That's what I mean, yep.

18 A. Just to clarify.

19 Q. And then when you say the BOP would
20 have been reluctant, is there a difference
21 between have been and actually was?

22 A. Well, I believe the term I used -- I
23 used would have because there wasn't a current,
24 you know, contract to be awarded.

25 Q. Okay. So you're using that term

1 because there -- there wasn't a competitively bid
2 contract for CCA to bid on as of that time?

3 A. Correct.

4 Q. Between April 2013 and late 2014, how
5 would you describe CCA's performance?

6 MR. FORGE: Object as to form.

7 THE WITNESS: It -- that's a --
8 well, that's a broad question. Are you
9 asking it specific to any particular
10 facility?

11 BY MS. TOMKOWIAK:

12 Q. Overall with respect to the five
13 facilities, did it improve? Did it get worse?

14 A. And the period of time again was
15 April --

16 Q. April --

17 A. -- April of 2013 through late 2014?

18 Q. Yes.

19 A. No. In my opinion, it had not
20 improved. It declined.

21 Q. It declined.

22 Was there a particular point in
23 between April 2013 and late 2014 that it
24 declined?

25 A. It progressed. With each CFM that

1 was occurring amongst the Adams facility, the
2 Cibola facility and the Eden facility, they were
3 all seeing very serious repetitive deficiencies
4 in very critical areas, health, failing to
5 maintain staffing for numerous months, close to a
6 year at some point in some of these facilities.
7 And most all of the deficiencies were repetitive.

8 When we -- when the Bureau of Prisons
9 and when CFM would go out and do an -- a
10 monitoring and they'd identify a deficiency and
11 they'd come back a year or six months later and
12 that deficiency still -- still exists, then it's
13 called a repeat deficiency. And when they come
14 out the next time it's a repeat, repeat
15 deficiency.

16 We were getting to the point where we
17 were seeing over the course of that time frame
18 CoreCivic -- their facilities were being
19 identified with, you know, repeat, repeat
20 deficiencies, repeat, repeat, repeat
21 deficiencies, significant findings that involved
22 repetitive deficiencies with probably the most
23 alarming deficiency in the fact that they were
24 not handling -- they weren't managing the medical
25 care appropriately, which contributed to inmate

1 deaths. So we were seeing that deficiency
2 repeated amongst their facilities. So --

3 Q. Okay. And you say on page 23 that
4 The CAR XV awards in late 2014 concretely
5 determined that -- or I'm sorry -- concretely
6 determined the BOP would not grant CCA a new
7 contract based on their poor past performance.

8 So the CAR XV poor selection decision
9 was signed by the BOP on December 29, 2014.
10 Is -- is that the -- the date by which the -- it
11 was concretely determined that the BOP would not
12 award CCA a new contract?

13 A. Yes, in my opinion.

14 Q. Okay. So when you say late 2014 by
15 referring to the CAR XV awards, you mean by
16 December 29, 2014; is that right?

17 A. I don't disagree with that statement.
18 Yeah, that's fine.

19 Q. Okay. What do you mean by concretely
20 determined?

21 A. Well, it was spelled out in the
22

1

4

That award -- I mean, it was -- CCA
lost a very well-running facility, their
Northeast Ohio facility. They actually bid that

7

9

another provider. So in my mind, that spoke
volumes.

10

11

Q. And you weren't involved in that
decision, correct?

12

13

A. I was not.

14

Q. And so -- and your opinion is based
on your review of the source selection document?

15

16

A. Based on the -- my review of the
source selection document and just my experience
in general in the position I was in.

17

18

19

Q. And so by concretely determined,
are -- you're saying that the BOP did not grant
CCA the CAR XV award on that date; is that right?

21

22

A. Correct.

23

Q. So I just want to be clear. You're
not speaking as you were in April 2013 about
hypothetical contracts that CCA may or may not

24

25

1 get in the future, you were just referring to the
2 CAR XV award; is that right?

3 MR. FORGE: Object --

4 THE WITNESS: I was --

5 MR. FORGE: -- as to form.

6 THE WITNESS: I was referring to
7 the CAR XV award.

8 BY MS. TOMKOWIAK:

9 Q. As of December 29, 2014, do you have
10 any opinion regarding how likely or not it would
11 have been for the BOP to award a different new
12 contract to CCA?

13 MR. FORGE: Object as to form.

14 THE WITNESS: Yeah, I'm not -- I'm
15 not sure I understood that question.

16 Could you repeat it?

17 BY MS. TOMKOWIAK:

18 Q. Sure.

19 Do you have an opinion as to any
20 point after December 29, 2014 as to how likely or
21 not the BOP was to award CCA a new contract?

22 MR. FORGE: Object as to form.

23 THE WITNESS: I would think it
24 would depend on what period of time, but
25 what I think does speak volumes is the

1 fact that the bureau has awarded since
2 that time another 15 -- more than 15,000
3 bids and CCA has not won a competitively
4 bidden contract with the Bureau of Prisons
5 in nine years. I believe 2011 was the
6 last time they won one.

7 BY MS. TOMKOWIAK:

8 Q. Are you speaking just with respect to
9 low security correctional facilities or are --
10 you're -- you're speaking about all type of
11 facilities?

12 A. I'm speaking in regards to these CAR
13 facilities.

14 Q. Okay. Well, what I'm -- I guess what
15 I'm trying to understand is let's look at the
16 relevant time period.

17 From December 29, 2014 to August
18 2016, do you have any opinion during that time
19 frame how likely or not it was for the BOP to
20 award CCA with a new contract?

21 MR. FORGE: Object as to form.

22 THE WITNESS: I believe it would
23 have been unlikely for the BOP to award to
24 CCA during that time frame.

25

1 BY MS. TOMKOWIAK:

2 Q. So in your opinion, at -- at no point
3 after the CAR XV awards was it possible for CCA
4 to turn their performance around?

5 MR. FORGE: Object as to form.

6 THE WITNESS: No, I'm not saying
7 that.

8 BY MS. TOMKOWIAK:

9 Q. Okay. Well, in your opinion, could
10 CCA have turned things around at some point after
11 the CAR XV awards?

12 MR. FORGE: Object as to form.

13 THE WITNESS: We hoped that CCA
14 would have turned things around at any
15 time.

16 BY MS. TOMKOWIAK:

17 Q. You mention in your report the -- the
18 cure notice that was issued to the -- to Cibola
19 in 2015.

20 Do you recall that?

21 A. I do.

22 Q. And you're aware that CCA
23 successfully responded to that cure notice and
24 that it was lifted a -- a few months later?

25 Is that a fair summary?

1 MR. FORGE: Object as to form.

2 THE WITNESS: I recall that it was
3 lifted because they corrected the majority
4 of the issues that were outlined in the
5 cure notice.

6 BY MS. TOMKOWIAK:

7 Q. And at that point in time, was it --
8 was the BOP more or less likely to award CCA a
9 new contract?

10 MR. FORGE: Object as to form.

11 THE WITNESS: I would have to
12 reanalyze all of the performance
13 information amongst their facilities to
14 provide an opinion on that.

15 BY MS. TOMKOWIAK:

16 Q. Well, if that's the case, if I asked
17 you how likely it was for the BOP to -- for the
18 BOP to award CCA a new contract at any point
19 during the period of December 2014 to August
20 2016, is it your testimony that you would have to
21 look at the performance documentation at that
22 particular point in time in order to be able to
23 render an opinion on that?

24 MR. FORGE: Object as to form.

25 THE WITNESS: I would have to

1 rereview my notes to offer an opinion on
2 that.

3 BY MS. TOMKOWIAK:

4 Q. Okay. So your opinion might change
5 based on the specific date and time that you were
6 asked to opine on?

7 MR. FORGE: Object --

8 THE WITNESS: It --

9 MR. FORGE: -- as to form.

10 THE WITNESS: -- it -- it may. But
11 what stands out in my mind is that there
12 were subsequent competitively bid
13 contracts and CCA did not receive any of
14 them.

15 BY MS. TOMKOWIAK:

16 Q. To your knowledge, did anybody at the
17 BOP tell CCA after December 2014 that it was
18 unlikely that they would win any new contract
19 with the BOP?

20 A. Not to my knowledge.

21 Q. You mentioned that you -- this
22 opinion is based on the source selection
23 decision -- or I should say at least in part on
24 the source selection decision; is that right?

25 A. Can you refresh my -- refresh me on

1 which opinion you -- you're referencing or
2 what --

3 Q. Your second -- your second opinion
4 relating to the CAR XV award.

5 A. It is based on the source selection
6 decision. It is based on my review of all of the
7 documents for this relevant time period. It's
8 based on my recollection of their performance in
9 my capacity as PMB administrator.

10 Q. And -- and you're aware, based on
11 your review of all those materials and your
12 experience, that past performance was not the
13 only non-price consideration in CAR XV?

14 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

25 Q. Did you consider that in forming your

1 opinion?

2 A. I relied on -- mainly for that
3 opinion was the main reason that the source
4 selection official said that CCA did not receive

5

7 that is where the weight was, in my opinion.

8 Q. In your opinion, was the ranking of
9 CCA's past performance as poor consistent with
10 the ratings that it had received in the CPARS
11 during the time period being evaluated?

12 A. I don't know that you can compare the
13 two.

14 Q. Well -- and we can -- we can look at
15 it if you'd like, but just in the interest of
16 time, I mean, the source selection document
17 itself goes through all of the ratings in the --
18 the CPARS. You saw the categories in the CPARS.
19 So I'm just interested if you know -- sitting
20 here today if you recall -- you said you reviewed
21 the CPARS, correct?

22 A. Um-hmm (affirmative). That's
23 correct.

24 Q. And you -- okay. And you've reviewed
25 the source selection document?

1 A. Yes.

2 Q. And do you have an opinion one way or
3 the other if the rating of CCA's past performance
4 as poor by -- in the source selection document
5 was consistent with the ratings it had received
6 in the CPARS for the relevant facilities during
7 that same time period?

8 MR. FORGE: Object as to form.

9 THE WITNESS: That's where I think
10 it's difficult to answer your question,
11 because I don't believe in CPARS that poor
12 was one of the ratings. It was --
13 they're -- the terms are -- are different,
14 so that's where I'm struggling with
15 answering that question.

16 BY MS. TOMKOWIAK:

17 Q. I -- I see. So because the ratings
18 there use the terminology like below satisfactory
19 or -- or marginal and that's -- that's why you're
20 saying you don't think you can compare the two?

21 A. Yes.

22 Q. Are you aware that the BOP awarded
23 CCA a new contract in September 2020 to operate a
24 new residential reentry center in Oklahoma?

25 A. I am not.

1 Q. Does that change your opinion that
2 the -- the BOP would not grant CCA a new contract
3 after December 2014?

4 A. My opinion was based on they would
5 not be likely to award a new contract for a
6 private prison. That's what my opinion was based
7 on. It wasn't anything outside of a prison
8 environment-type contract.

9 Q. So in your report when you talk about
10 a new contract or additional business, you're
11 referring to a private prison and nothing else?

12 A. Yes.

13 Q. Could you turn to page 25 of your
14 report.

15 A. Okay.

16 Q. I'm going to -- is it fair if I refer
17 to -- pages 25 and 26, does this describe your
18 third opinion?

19 A. Yes.

20 Q. If you look at the paragraph -- the
21 second to last paragraph, which says that -- in
22 the first sentence it says, The CCA facility
23 contracts required them to house inmates who were
24 male, low security, parentheses, inmates with
25 little to no current or history of serious

1 violence or detainers, criminal aliens, and then
2 parentheses, non-U.S. citizens who will be
3 reported (sic) back to their countries of birth
4 upon their release, comma, serving less than
5 90 months of their sentence.

6 Do you see that?

7 A. I do.

8 Q. Okay. And then in the next paragraph
9 you go on to describe that population. And are
10 you referring back to the -- the population that
11 you described in what I just read?

12 A. The next sentence starting with BOP
13 designators?

14 Q. No, I -- I apologize.

15 So if you look at the last paragraph
16 on that page --

17 A. Okay.

18 Q. -- and the first sentence starts with
19 In summary, this population requires a low level
20 of correctional management, basic health
21 services, new or complex programming and is
22 viewed by the BOP as an easy-to-manage
23 population.

24 So my question is by this population,
25 are you -- does that mean the -- the male, low

1 security criminal aliens serving less than
2 90 months of their sentence?

3 MR. FORGE: Object as to form.

4 THE WITNESS: It takes into
5 consideration that sentence and then it
6 takes into consideration the rest of that
7 paragraph.

8 BY MS. TOMKOWIAK:

9 Q. Okay. So by this population -- I'm
10 just trying to understand what -- what this
11 population is referring to. Is it referring to
12 everything in the preceding paragraph?

13 A. Yes.

14 Q. Do you -- do you agree that the level
15 of programming is set by contract?

16 MR. FORGE: Object as to form.

17 THE WITNESS: The contract spells
18 out any programs that we required the
19 contractors provide to the inmate
20 population at those facilities. It did
21 not say they couldn't have more. It
22 provided the bare minimum.

23 BY MS. TOMKOWIAK:

24 Q. Are you aware that CCA actually
25 offered educational programming in excess of

1 those bare minimum requirements at several of its
2 facilities?

3 A. I am -- I am aware of it.

4 Q. And is -- do you agree that
5 programming is a small percentage of the overall
6 correctional services that CCA provided?

7 MR. FORGE: Object as to form.

8 THE WITNESS: I don't know how to
9 quantify that. It's a portion of it. I'm
10 not comfortable saying it's a small
11 portion, but it's a portion of what they
12 provide.

13 BY MS. TOMKOWIAK:

14 Q. How would you describe it, if not
15 small?

16 A. It's a relevant portion of services
17 that they need to provide, as outlined in the
18 contract.

19 Q. What evidence do -- do you have to
20 support your opinion that the BOP viewed this as
21 a easy-to-manage population?

22 A. My comment on there was in a broader
23 sense, basically outlining the fact that what we
24 required the contractors provide to the inmates
25 that we placed in these facilities was to a much

1 lesser extent than what a BOP facility -- you
2 know, what a BOP low security facility would
3 provide to its inmate population.

4 **Q. Okay. So are you saying that easy to**
5 **manage means fewer contractual requirements?**

6 MR. FORGE: Object as to form.

7 THE WITNESS: I guess I'm not sure
8 how to answer that. Can you give me an
9 example?

10 BY MS. TOMKOWIAK:

11 **Q. Well, I -- I just want to understand.**
12 **You say that the BOP viewed this as an**
13 **easy-to-manage population. What is -- what is**
14 **that view based on? I mean, what -- what does**
15 **easy to manage mean?**

16 A. Well, as I reference in the paragraph
17 above, where I'm talking about they don't need to
18 provide any programs for sex offenders; they
19 don't need -- they don't have to deal with
20 serious physical or mental health issues with the
21 inmates that were placed in the -- those
22 facilities; inmates that presented serious
23 correctional management issues; required drug
24 treatment or any other court-imposed programs.
25 So I'm referring to those particular types.

1 Q. Okay. So are the -- are the types
2 that you just laid out, in your opinion, are
3 those the inmates who are more difficult to
4 manage?

5 A. They require -- they require
6 different things in a correctional setting. They
7 require different programs. They possibly
8 require more staffing. They require more
9 security. There's a lot of variables involved in
10 that.

11 Q. But the -- in -- but in -- in your
12 opinion, the inmate population in contrast that
13 CCA's facilities housed were easier to manage
14 than -- than those inmates?

15 A. In my opinion, the inmate -- inmate
16 population that we placed in these private
17 facilities did not require as much programming,
18 as much security, all of those things that a BOP
19 low security facility would face with the inmate
20 population that they had.

21 Q. Is that opinion based on any
22 research?

23 A. It is not.

24 Q. Is that opinion based on any academic
25 articles?

1 A. No.

2 Q. Do you agree that the population of
3 inmates at CCA's facilities have a higher rate of
4 security threat group members?

5 MR. FORGE: Object as to form.

6 THE WITNESS: As compared to?

7 BY MS. TOMKOWIAK:

8 Q. As compared to inmates at
9 BOP-operated facilities.

10 A. Do they have a higher number?

11 MR. FORGE: Object as to form.

12 THE WITNESS: I don't know, unless
13 I were to see documentation, but doesn't
14 stand out to me.

15 BY MS. TOMKOWIAK:

16 Q. Okay. Do you agree that the inmate
17 population at CCA facilities is more homogenous
18 than the population at BOP-operated facilities?

19 MR. FORGE: Object as to form.

20 THE WITNESS: Not necessarily.

21 BY MS. TOMKOWIAK:

22 Q. Why not?

23 A. So homogenous meaning similar. The
24 fact -- if you want to look at that, the
25 population in a -- in one of the private

1 facilities was mostly like as we just talked
2 about, foreign-born citizens that were going to
3 be deported, then I would say yes; but you have
4 similar BOP facilities with populations that are
5 very similar in nature.

6 You know, they're -- they're there
7 for the same type of programs or the same type of
8 security level and things of that nature.

9 Q. Do you agree that the inmates at
10 BOP-operated facilities are typically more
11 diverse than predominantly U.S.-born?

12 MR. FORGE: Object as to form.

13 THE WITNESS: Yes, I would agree.

14 BY MS. TOMKOWIAK:

15 Q. Do you agree that criminal alien
16 populations impose certain language and cultural
17 barriers?

18 MR. FORGE: Object as to form.

19 THE WITNESS: Well, I -- can you
20 clarify that?

21 BY MS. TOMKOWIAK:

22 Q. Sure.

23 Do you think that -- do you agree
24 with me that criminal alien populations impose
25 language and cultural barriers?

1 MR. FORGE: Object as to form.

2 THE WITNESS: They -- well, they do
3 create a -- a -- a need for obviously the
4 staffing at that facility to be able to
5 better communicate with that inmate
6 population. So just like in a BOP
7 facility, depending on where it's located,
8 if it had a lot of -- a large
9 Spanish-speaking population, then you
10 would probably see more Spanish-speaking
11 staff.

12 So whether it's a barrier or an issue
13 that just needs to be accommodated. I'm not
14 sure I would call it a barrier, but it's --
15 it's something to take into consideration.

16 If you're going to manage a certain
17 type of population, you want to take that
18 into consideration with how you staff that
19 facility.

20 BY MS. TOMKOWIAK:

21 Q. Has anybody besides you at the BOP
22 ever stated that they consider the criminal alien
23 population to be easy to manage?

24 MR. FORGE: Objection as to form.

25 THE WITNESS: I don't know.

1 BY MS. TOMKOWIAK:

2 Q. To your knowledge, has anyone at the
3 BOP ever stated that they consider the criminal
4 alien population to be easy to manage?

5 MR. FORGE: Object as to form.

6 THE WITNESS: I thought I just
7 answered that question.

8 BY MS. TOMKOWIAK:

9 Q. Well, my first question did not add
10 the qualifier to your knowledge and so I wanted
11 to understand if that's why you were saying you
12 didn't know.

13 A. To my knowledge, has anyone actually
14 made that statement? No. But to my knowledge,
15 the reason that the Bureau of Prisons decided to
16 place this specialized population into these
17 private prisons is because they weren't
18 comfortable in putting in the hands of a
19 contractor any higher security-type population
20 and thought that this would be, from what I
21 recall, based on my experience, one of the easier
22 type populations to manage.

23 Q. That was the intent, from what you
24 can recall and in your experience?

25 A. Yes.

1 Q. Are you aware that every major
2 private prison operator under a BOP criminal
3 alien contract has had a major disturbance within
4 this population?

5 MR. FORGE: Object as to form.

6 THE WITNESS: I know there has been
7 different disturbances amongst different
8 providers. I don't know that you could
9 say it was every provider that the bureau
10 has contracted with for this type of
11 contract.

12 BY MS. TOMKOWIAK:

13 Q. Are you familiar with the disturbance
14 in 2015 at Willacy County in Texas?

15 A. Yes, I am.

16 Q. And -- and that's operated by MTC; is
17 that right?

18 A. It was, yes.

19 Q. Are you familiar with the disturbance
20 in Big Springs, Texas in 2008?

21 A. That one I am not familiar with.
22 That was prior to my role as PMB administrator.
23 I don't recall that one.

24 Q. What about the disturbance at Reeves
25 County, Texas in 2009? Are you familiar with

1 that?

2 A. I am familiar with that.

3 Q. And -- and that particular facility
4 is operated by the GEO Group; is that right?

5 A. It is on contract with Reeves County.
6 It is subcontracted to the GEO Group to manage
7 the -- that facility. At least it was at the
8 time.

9 One thing I do recall about those
10 disturbances, at least the ones that I can
11 recall, is that there were perceptions from the
12 inmate population that they were not receiving
13 adequate medical care.

14 Q. If you could turn to page 26.

15 A. Okay.

16 Q. If you look at the last paragraph, it
17 says that Given the vast differences among the
18 services CCA offered the BOP and the services the
19 BOP provides in its own institutions, it is my
20 opinion it is impossible to make an
21 apples-to-apples cost comparison.

22 Do you see that?

23 A. I do.

24 Q. And what are the vast differences
25 among the services offered?

1 A. Well, as I articulate in the previous
2 page, some of the things that we just talked
3 about, and then qualifications of staff that I
4 refer to in the paragraph prior to that. There
5 were just -- there were just vast differences.

6 In a BOP institution, you know, BOP
7 offered many different programs. Security
8 levels, industries, work environments and
9 staffing qualifications were at a higher level
10 than what CCA required.

11 The contract requires certain things,
12 but not everything that the bureau offers and
13 provides. So taking into consideration all of
14 those things, there's -- in my mind, there's no
15 way to make a comparison, an apples-to-apples
16 comparison.

17 **Q. With respect to the quality of staff,**
18 **you agree that the staffing requirements are set**
19 **out in the contract, right?**

20 A. They are.

21 MR. FORGE: Object as to form.

22 BY MS. TOMKOWIAK:

23 **Q. Okay.**

24 A. The minimum core requirements, yes.

25 **Q. I'm sorry, what?**

1 A. The minimum requirements, yes.

2 Q. Right. So the -- the -- for CCA to
3 be in compliance with the contract, the contract
4 sets out the minimum requirements for the
5 qualifications and -- of the staff and the
6 staffing levels, correct?

7 A. Correct.

8 Q. I believe we -- you -- we talked
9 earlier about the fact that you or staff under
10 your direction were required to approve staffing
11 decisions made by CCA, right?

12 A. Yes.

13 Q. What is an apples-to-apples
14 comparison?

15 A. You're comparing the same exact
16 thing.

17 Q. Did you attempt to make any cost
18 comparisons yourself?

19 A. I did not.

20 Q. So you don't have an opinion one way
21 or the other if CCA provided cost savings to the
22 BOP?

23 MR. FORGE: Object as to form.

24 THE WITNESS: I can't offer an
25 opinion without -- can you repeat the

1 question, please?

2 BY MS. TOMKOWIAK:

3 Q. So you don't have an opinion one way
4 or the other if CCA provided cost savings to the
5 BOP?

6 MR. FORGE: Object as to form.

7 THE WITNESS: Again, what CCA
8 offered or any other provider offered the
9 BOP versus what the BOP provided in its
10 own institutions, there's no way to
11 compare that there was any cost savings.
12 I don't know how else to answer that
13 question.

14 BY MS. TOMKOWIAK:

15 Q. Well, again, the -- the point here is
16 to understand and make sure I know all of the
17 opinions that you have formed in this case. And
18 so based on what you just told me, it's my
19 understanding that you do not have an opinion
20 regarding whether CCA provided cost savings to
21 the BOP or not; is that right?

22 MR. FORGE: Object as to form.

23 THE WITNESS: Well, as I stated,
24 the way I say it in my opinion, I guess
25 I'll just stick with that, that it would

1 not be accurate to claim -- to say that
2 contracting with CCA did or would save the
3 BOP money.

4 BY MS. TOMKOWIAK:

5 Q. Did CCA ever say that it provided
6 cost savings to the BOP based on an
7 apples-to-apples comparison?

8 MR. FORGE: Object as to form.

9 THE WITNESS: I am not sure. I was
10 asked to provide my opinion on that.

11 BY MS. TOMKOWIAK:

12 Q. On -- on what? On whether it would
13 be accurate to claim that CCA did or would save
14 the BOP money?

15 A. I was asked whether the services CCA
16 provided to the BOP were sufficiently comparable
17 to the services BOP provided at its own
18 facilities as to be able to make an
19 apples-to-apples cost comparison such that anyone
20 could have accurately claimed that contracting
21 with CCA did and/or would save the BOP money.

22 Q. You were not asked to opine on
23 whether or not CCA in fact provided cost savings
24 to the BOP?

25 A. No.

1 Q. You don't have an opinion on that?

2 A. I was not --

3 MR. FORGE: Object as to form.

4 THE WITNESS: -- asked to provide
5 an opinion on that.

6 BY MS. TOMKOWIAK:

7 Q. We talked a little bit about ACA
8 accreditation earlier and the ACA -- I -- I
9 believe you testified to this, but I want to make
10 sure:

11 The ACA accredits all correctional
12 facilities, whether operated by a private
13 operator or the BOP; is that right?

14 A. Amongst -- yeah. For the Bureau of
15 Prisons we sought ACA accreditation for all of
16 our BOP facilities and it was part of the
17 contract that our private providers acquire ACA
18 accreditation.

19 Q. And the ACA accreditation standards
20 are the same for the BOP facilities and the
21 privately operated facilities, correct?

22 MR. FORGE: Object as to form.

23 THE WITNESS: I believe so. There
24 was a different set of standards depending
25 on -- I think for our BOP facilities there

1 were detention standards. So depending on
2 the mission of the BOP facility, there
3 could have been different standards
4 utilized.

5 BY MS. TOMKOWIAK:

6 Q. Are you aware during the relevant
7 time period that all of CCA's facilities were
8 accredited by the ACA?

9 A. Yes.

10 Q. In fact, many of their facilities
11 consistently scored 100 percent on those audits?

12 A. Correct.

13 MR. FORGE: Object as to form.

14 BY MS. TOMKOWIAK:

15 Q. We talked a little bit about the
16 oversight of BOP-operated facilities versus
17 privately operated facilities. And I believe,
18 but correct me if I'm wrong, that you testified
19 that some functions at BOP-operated facilities
20 are contracted out.

21 Is that accurate?

22 A. I -- I recollect that the bureau --
23 yeah. I think there may have been a couple
24 institutions where they may have contracted some
25 services, but I don't recall specifics, no.

1 Q. You don't recall specifically what
2 services you believe were contracted out?

3 A. I don't. It might have been a
4 commissary. I just recall that there was like a
5 contracting person on-site or in a regional
6 office and that was their responsibility for
7 whatever institution may have had a contract
8 within that region, to just ensure that the
9 contractor was providing the services for what it
10 was contracted for.

11 Q. We also talked a little bit about
12 third -- about monitors that were on-site at
13 BOP-operated facilities.

14 Do you recall that?

15 A. I do.

16 Q. Just to clarify, those are not
17 third-party monitors, right?

18 A. I don't -- those --

19 Q. Let me ask it a different way.

20 Those -- those monitors were employed
21 by the BOP; is that right?

22 A. They were. They're BOP staff.

23 MS. TOMKOWIAK: Could we go off the
24 record?

25 MR. FORGE: Sure.

1 VIDEO OPERATOR: Yes. The time is
2 3:06 p.m. and we are now off the record.

3 (Thereupon, a brief recess was
4 taken.)

5 VIDEO OPERATOR: Okay. The time is
6 3:23 p.m. and we are back on the record.

7 BY MS. TOMKOWIAK:

8 Q. So Ms. Mellendick, I just have a few
9 very brief questions.

10 First, when we were speaking about
11 the -- the populations of inmates at BOP
12 facilities and CCA facilities --

13 A. Um-hmm (affirmative).

14 Q. -- and you didn't mean to suggest
15 that the BOP contracts out all of the low
16 security inmate population, correct?

17 A. No, I did not say that.

18 Q. Okay. And -- and, in fact, the BOP
19 itself continues to operate -- in -- in both the
20 relevant time period and today continues to
21 operate several low security facilities itself,
22 right?

23 A. Yes. The BOP has numerous low
24 security facilities.

25 Q. Including facilities that have

1 criminal alien populations?

2 A. There -- there could be inmates in
3 BOP low security facilities that have some
4 criminal aliens housed there, correct.

5 Q. The BOP's low security prisons have
6 the same security requirements as CCA's low
7 security facilities; is that right?

8 MR. FORGE: Object as to form.

9 THE WITNESS: Far as I'm aware.

10 BY MS. TOMKOWIAK:

11 Q. Who succeeded you in your role as PMB
12 administrator?

13 A. Her name is Pamela Jones.

14 Q. Did you work with Ms. Jones during
15 your time at the BOP?

16 A. I did.

17 Q. What's your opinion of Ms. Jones?

18 MR. FORGE: Object as to form.

19 THE WITNESS: She was one of the
20 privatization field administrators in my
21 branch and I was always respectful of her
22 and had no problems with the work that she
23 did and I was pleased to see her take on
24 my position once I retired.

25 MS. TOMKOWIAK: I have no further

1 questions.

2 MR. FORGE: Okay. I have no
3 questions.

4 THE WITNESS: Okay.

5 VIDEO OPERATOR: All right.

6 MS. TOMKOWIAK: All right,
7 Ms. Mellendick, thank you for your time.

8 VIDEO OPERATOR: No more questions?
9 Let me go ahead and do my little read-on.

10 This concludes today's deposition of
11 Donna Mellendick. The time is 3:25 p.m. and
12 the date is October 27, 2020.

13 We are now off of the record.

14 (Thereupon, signature having not been
15 waived, at 3:25 p.m. CST the
16 deposition concluded.)

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1 CERTIFICATE OF NOTARY

2 I, MISTY KLAPPER, the officer before
3 whom the foregoing deposition was taken, do
4 hereby certify that the witness whose
5 testimony appears in the foregoing
6 deposition was duly sworn by me; that the
7 testimony of said witness was taken by me in
8 shorthand and thereafter reduced to
9 typewriting by me; that said deposition is a
10 true record of the testimony given by said
11 witness; that I am neither counsel for,
12 related to, nor employed by any of the
13 parties to the action in which this
14 deposition was taken; and, further, that I
15 am not a relative or employee of any
16 attorney or counsel employed by the parties
17 hereto, nor financially or otherwise
18 interested in the outcome of this action.

19 Further, that if the foregoing pertains to
20 the original transcript of a deposition in a federal
21 case, before completion of the proceedings, review
22 of the transcript [X] was [] was not requested.

23 Dated: November 3, 2020

24 
Misty Klapper, RMR, CRR
25 and Notary Public